

IN THE SENATE

SENATE BILL NO. 1326

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO LICENSING; AMENDING SECTION 39-1202, IDAHO CODE, TO DEFINE TERMS  
2 AND TO REMOVE A DEFINITION; AMENDING SECTION 39-1203, IDAHO CODE, TO  
3 REVISE TERMINOLOGY AND TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION  
4 39-1204, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-1205,  
5 IDAHO CODE, TO REVISE PROVISIONS REGARDING EVALUATION OF DISCLOSURE RE-  
6 PORTS; AMENDING SECTION 39-1207, IDAHO CODE, TO REVISE TERMINOLOGY AND  
7 TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-1208, IDAHO CODE,  
8 TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SEC-  
9 TION 39-1209, IDAHO CODE, TO REVISE PROVISIONS REGARDING STANDARDS FOR  
10 CHILDREN'S AGENCIES; AMENDING SECTION 39-1210, IDAHO CODE, TO REVISE  
11 TERMINOLOGY; AMENDING SECTION 39-1211, IDAHO CODE, TO PROVIDE THAT CER-  
12 TAIN FOSTER HOMES SHALL BE LICENSED FOR ONE YEAR, TO PROVIDE RULEMAKING  
13 AUTHORITY TO THE DEPARTMENT OF HEALTH AND WELFARE, TO PROVIDE FOR LI-  
14 CENSING RENEWAL APPLICATIONS, TO PROVIDE FOR PROVISIONAL LICENSING,  
15 TO PROVIDE FOR CERTAIN HOME VISITS, TO PROVIDE FOR DENIAL, SUSPENSION,  
16 REVOCATION, OR NONRENEWAL OF FOSTER HOME LICENSES, TO PROVIDE FOR AP-  
17 PEALS, AND TO PROVIDE FOR LEGAL ACTION AGAINST A PERSON OPERATING A  
18 FOSTER HOME WITHOUT A LICENSE; REPEALING SECTION 39-1212, IDAHO CODE,  
19 RELATING TO APPLICATION OF THE ADMINISTRATIVE PROCEDURE ACT; AMENDING  
20 SECTION 39-1213, IDAHO CODE, TO REVISE PROVISIONS REGARDING LICENSING  
21 AUTHORITY; AMENDING SECTION 39-1214, IDAHO CODE, TO REVISE PROVISIONS  
22 REGARDING ELIGIBILITY FOR A LICENSE; AMENDING SECTION 39-1215, IDAHO  
23 CODE, TO REVISE PROVISIONS REGARDING EXPIRATION AND RENEWAL OF CER-  
24 TAIN LICENSES; REPEALING SECTION 39-1216, IDAHO CODE, RELATING TO A  
25 PROVISIONAL LICENSE; AMENDING CHAPTER 12, TITLE 39, IDAHO CODE, BY THE  
26 ADDITION OF A NEW SECTION 39-1216, IDAHO CODE, TO ESTABLISH PROVISIONS  
27 REGARDING PROVISIONAL LICENSES FOR A CHILDREN'S AGENCY, CHILDREN'S  
28 THERAPEUTIC OUTDOOR PROGRAM, OR CHILDREN'S RESIDENTIAL CARE FACILITY  
29 LICENSE; AMENDING SECTION 39-1217, IDAHO CODE, TO REVISE PROVISIONS  
30 REGARDING VISITATION; REPEALING SECTION 39-1218, IDAHO CODE, RELATING  
31 TO DENIAL, SUSPENSION, REVOCATION, OR NONRENEWAL OF LICENSES; AMEND-  
32 ING CHAPTER 12, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION  
33 39-1218, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING DENIAL, SUSPEN-  
34 SION, REVOCATION, OR NONRENEWAL OF A LICENSE FOR A CHILDREN'S AGENCY,  
35 CHILDREN'S THERAPEUTIC OUTDOOR PROGRAM, OR CHILDREN'S RESIDENTIAL  
36 CARE FACILITY; REPEALING SECTION 39-1219, IDAHO CODE, RELATING TO AP-  
37 PEALS; AMENDING CHAPTER 12, TITLE 39, IDAHO CODE, BY THE ADDITION OF  
38 A NEW SECTION 39-1219, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING  
39 APPEALS; AMENDING SECTION 39-1221, IDAHO CODE, TO REVISE PROVISIONS  
40 REGARDING REMOVAL OF CHILDREN; REPEALING SECTION 39-1222, IDAHO CODE,  
41 RELATING TO AN ACTION AGAINST AN UNLICENSED FOSTER HOME, CHILDREN'S  
42 AGENCY, THERAPEUTIC OUTDOOR PROGRAM, OR RESIDENTIAL CARE FACILITY;  
43 AMENDING CHAPTER 12, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SEC-  
44 TION 39-1222, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING ACTIONS  
45

1 AGAINST UNLICENSED CHILDREN'S AGENCIES, THERAPEUTIC OUTDOOR PROGRAMS,  
2 OR RESIDENTIAL CARE FACILITIES; AMENDING SECTION 39-1301, IDAHO CODE,  
3 TO DEFINE TERMS AND TO REVISE DEFINITIONS; AMENDING SECTION 39-1301A,  
4 IDAHO CODE, TO REVISE TERMINOLOGY AND TO PROVIDE A CORRECT CODE REFER-  
5 ENCE; AMENDING SECTION 39-1301B, IDAHO CODE, TO REVISE TERMINOLOGY;  
6 AMENDING SECTION 39-1303a, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING  
7 SECTION 39-1303b, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SEC-  
8 TION 39-1303c, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL  
9 CORRECTIONS; AMENDING SECTION 39-1304, IDAHO CODE, TO REVISE TERMI-  
10 NOLOGY; AMENDING SECTION 39-1306, IDAHO CODE, TO REVISE TERMINOLOGY;  
11 AMENDING SECTION 39-1307, IDAHO CODE, TO REVISE PROVISIONS REGARDING  
12 RULES AND ENFORCEMENT; AMENDING SECTION 39-1307A, IDAHO CODE, TO REVISE  
13 PROVISIONS REGARDING FOOD PURCHASING AND STORAGE; AMENDING SECTION  
14 39-1307B, IDAHO CODE, TO REVISE PROVISIONS REGARDING MINIMUM STAFFING  
15 REQUIREMENTS; AMENDING SECTION 39-1402, IDAHO CODE, TO DEFINE TERMS AND  
16 TO REVISE DEFINITIONS; REPEALING SECTION 39-1403, IDAHO CODE, RELATING  
17 TO THE DIVISION OF HEALTH FACILITIES SURVEY AND CONSTRUCTION; AMENDING  
18 SECTION 39-1404, IDAHO CODE, TO REVISE PROVISIONS REGARDING GENERAL  
19 POWERS AND DUTIES OF A CERTAIN AGENCY; AMENDING SECTION 39-2401, IDAHO  
20 CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-2402, IDAHO CODE,  
21 TO DEFINE TERMS AND TO REVISE DEFINITIONS; AMENDING SECTION 39-2403,  
22 IDAHO CODE, TO REVISE TERMINOLOGY, TO REMOVE OBSOLETE LANGUAGE, AND TO  
23 MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-2404, IDAHO CODE, TO  
24 REVISE TERMINOLOGY; AMENDING SECTION 39-2405, IDAHO CODE, TO REVISE  
25 PROVISIONS REGARDING RULES AND ENFORCEMENT; AMENDING SECTION 39-2407,  
26 IDAHO CODE, TO REVISE PROVISIONS REGARDING CONFIDENTIALITY; AMENDING  
27 SECTION 39-2408, IDAHO CODE, TO REVISE PROVISIONS REGARDING INJUNC-  
28 TIONS TO PREVENT OPERATION WITHOUT A LICENSE; AMENDING SECTION 39-3302,  
29 IDAHO CODE, TO DEFINE TERMS, TO REMOVE DEFINITIONS, AND TO REVISE DEFI-  
30 NITIONS; AMENDING SECTION 39-3303, IDAHO CODE, TO REVISE TERMINOLOGY;  
31 AMENDING SECTION 39-3305, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE  
32 TECHNICAL CORRECTIONS; AMENDING SECTION 39-3307, IDAHO CODE, TO REVISE  
33 TERMINOLOGY; AMENDING SECTION 39-3308, IDAHO CODE, TO REVISE TERMI-  
34 NOLOGY; AMENDING SECTION 39-3313, IDAHO CODE, TO REVISE TERMINOLOGY;  
35 AMENDING SECTION 39-3314, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE  
36 TECHNICAL CORRECTIONS; AMENDING SECTION 39-3315, IDAHO CODE, TO REVISE  
37 TERMINOLOGY; AMENDING SECTION 39-3316, IDAHO CODE, TO REVISE TERMI-  
38 NOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-3321,  
39 IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-3326, IDAHO  
40 CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-3330, IDAHO CODE, TO  
41 REVISE PROVISIONS REGARDING A CERTAIN ADVISORY COUNCIL; AMENDING SEC-  
42 TION 39-3331, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE POWERS AND  
43 DUTIES OF A CERTAIN ADVISORY COUNCIL; AMENDING SECTION 39-3332, IDAHO  
44 CODE, TO REVISE PROVISIONS REGARDING MEETINGS OF A CERTAIN ADVISORY  
45 COUNCIL; AMENDING SECTION 39-3333, IDAHO CODE, TO REVISE TERMINOLOGY;  
46 AMENDING SECTION 39-3340, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING  
47 SECTION 39-3345, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION  
48 39-3349, IDAHO CODE, TO REVISE PROVISIONS REGARDING RESPONSIBILITY FOR  
49 INSPECTIONS AND TECHNICAL ASSISTANCE; AMENDING SECTION 39-3351, IDAHO  
50 CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-3352, IDAHO CODE, TO

1 REVISE TERMINOLOGY; AMENDING SECTION 39-3354, IDAHO CODE, TO REVISE  
2 TERMINOLOGY; AMENDING SECTION 39-3354A, IDAHO CODE, TO REVISE TERMI-  
3 NOLOGY; AMENDING SECTION 39-3355, IDAHO CODE, TO REVISE TERMINOLOGY;  
4 AMENDING SECTION 39-3357, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING  
5 SECTION 39-3358, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION  
6 39-3501, IDAHO CODE, TO REVISE TERMINOLOGY AND TO PROVIDE A CORRECT  
7 CODE REFERENCE; AMENDING SECTION 39-3502, IDAHO CODE, TO DEFINE TERMS,  
8 TO REMOVE DEFINITIONS, AND TO REVISE DEFINITIONS; AMENDING SECTION  
9 39-3504, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-3505,  
10 IDAHO CODE, TO REVISE TERMINOLOGY AND TO REMOVE OBSOLETE LANGUAGE;  
11 AMENDING SECTION 39-3508, IDAHO CODE, TO REVISE TERMINOLOGY; REPEALING  
12 SECTION 39-3511, IDAHO CODE, RELATING TO A CERTAIN ADVISORY COUNCIL;  
13 AMENDING SECTION 39-3513, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING  
14 SECTION 39-3516, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECH-  
15 NICAL CORRECTION; AMENDING SECTION 39-3520, IDAHO CODE, TO REVISE TER-  
16 MINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-3521,  
17 IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-3522, IDAHO  
18 CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-3523, IDAHO CODE, TO  
19 REVISE TERMINOLOGY; AMENDING SECTION 39-3524, IDAHO CODE, TO REVISE  
20 TERMINOLOGY; AMENDING SECTION 39-3525, IDAHO CODE, TO REVISE TERMI-  
21 NOLOGY; AMENDING SECTION 39-3526, IDAHO CODE, TO REVISE TERMINOLOGY;  
22 AMENDING SECTION 39-3527, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING  
23 SECTION 39-3554, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION  
24 39-4602, IDAHO CODE, TO REVISE PROVISIONS REGARDING STATUTORY PURPOSE;  
25 AMENDING SECTION 39-4605, IDAHO CODE, TO REMOVE PROVISIONS REGARDING  
26 AN APPLICATION FOR APPROVAL AND CERTIFICATION OF A DEVELOPMENTAL DIS-  
27 ABILITIES FACILITY; AMENDING CHAPTER 46, TITLE 39, IDAHO CODE, BY THE  
28 ADDITION OF A NEW SECTION 39-4605A, IDAHO CODE, TO PROVIDE FOR DUTIES OF  
29 THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES WITH REGARD TO  
30 APPROVAL AND CERTIFICATION OF A DEVELOPMENTAL DISABILITIES FACILITY;  
31 AMENDING SECTION 39-5302, IDAHO CODE, TO DEFINE TERMS; AMENDING SEC-  
32 TION 39-5303, IDAHO CODE, TO REVISE TERMINOLOGY, TO PROVIDE A CORRECT  
33 CODE REFERENCE, AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION  
34 39-5303A, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL COR-  
35 RECTIONS; AMENDING SECTION 39-5304, IDAHO CODE, TO REVISE TERMINOLOGY,  
36 TO PROVIDE A CORRECT CODE REFERENCE, AND TO MAKE A TECHNICAL CORRECTION;  
37 AMENDING SECTION 39-5308, IDAHO CODE, TO REVISE PROVISIONS REGARDING  
38 INTERAGENCY COOPERATION; AMENDING SECTION 39-5309, IDAHO CODE, TO RE-  
39 VISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION  
40 67-5009, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL COR-  
41 RECTION; AMENDING SECTION 39-1392a, IDAHO CODE, TO PROVIDE A CORRECT  
42 CODE REFERENCE; AMENDING SECTION 39-3301, IDAHO CODE, TO PROVIDE A COR-  
43 RECT CODE REFERENCE; AMENDING SECTION 39-3322, IDAHO CODE, TO PROVIDE A  
44 CORRECT CODE REFERENCE; AMENDING SECTION 54-3215, IDAHO CODE, TO PRO-  
45 VIDE CORRECT CODE REFERENCES; AMENDING SECTION 56-101, IDAHO CODE, TO  
46 PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 56-1402, IDAHO CODE,  
47 TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 63-701, IDAHO  
48 CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 66-327,  
49 IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND DECLARING AN EMER-  
50 GENCY AND PROVIDING AN EFFECTIVE DATE.

1 Be It Enacted by the Legislature of the State of Idaho:

2 SECTION 1. That Section 39-1202, Idaho Code, be, and the same is hereby  
3 amended to read as follows:

4 39-1202. DEFINITIONS. For the purposes of this chapter:

5 (1) "Administrator" means the administrator of the division of occupa-  
6 tional and professional licenses.

7 (2) "Board" means the Idaho board of health and welfare.

8 (3) "Child care" means that care, control, supervision or maintenance  
9 of children for twenty-four (24) hours a day which is provided as an alterna-  
10 tive to parental care.

11 (4) "Child" means an individual less than eighteen (18) years of age  
12 who is not enrolled in an institution of higher education.

13 (5) "Children's agency" means a person who operates a business for the  
14 placement of children in foster homes or for adoption in a permanent home  
15 and who does not provide child care as part of that business. Children's  
16 agency does not include a licensed attorney or physician assisting or pro-  
17 viding natural and adoptive parents with legal services or medical services  
18 necessary to initiate and complete adoptive placements.

19 (6) "Children's camp" means a program of child care at a location  
20 away from the child's home which is primarily recreational and includes the  
21 overnight accommodation of the child and is not intended to provide treat-  
22 ment, therapy or rehabilitation for the child.

23 (7) "Children's institution" means a person who operates a residen-  
24 tial facility for children not related to that person if that person is an in-  
25 dividual, for the purpose of providing child care. Children's institutions  
26 include, but are not limited to, foster homes, maternity homes, children's  
27 therapeutic outdoor programs, or any facilities providing treatment, ther-  
28 apy or rehabilitation for children. Children's institutions do not include:  
29 (a) facilities which provide only daycare as defined in chapter 11, title 39,  
30 Idaho Code; (b) facilities and agencies including hospitals, skilled nurs-  
31 ing facilities, intermediate care facilities, and intermediate care facili-  
32 ties for people with intellectual disabilities licensed pursuant to chapter  
33 13, title 39, Idaho Code; (c) day schools; (d) individuals acting in an ad-  
34 visory capacity, counseling a child in a religious context, and providing no  
35 child care associated with the advice; (e) the occasional or irregular care  
36 of a neighbor's, relative's or friend's child or children by a person not or-  
37 dinarily engaged in child care.

38 (8) "Children's residential care facility" means a children's insti-  
39 tution, excluding:

40 (a) Foster homes;

41 (b) Residential schools;

42 (c) Children's camps.

43 No facility expressly excluded from the definition of a children's institu-  
44 tion is included within the definition of a children's residential care fa-  
45 cility.

46 (9) "Children's therapeutic outdoor program" is a program which is  
47 designed to provide behavioral, substance abuse, or mental health services  
48 to minors in an outdoor setting. This does not include children's camps,

1 church camps, or other outdoor programs primarily designed to be educational  
2 or recreational, such as Boy Scouts, Girl Scouts, 4-H or sports camps.

3 (910) "Continued care" means the ongoing placement of an individual in  
4 a foster home, children's residential care facility, or transitional living  
5 placement who reaches the age of eighteen (18) years but is less than twenty-  
6 one (21) years of age.

7 (101) "Day school" means a public, private, parochial or secular facil-  
8 ity offering an educational program in which the children leave the facility  
9 each day at the conclusion of the academic, vocational or school supervised  
10 activities.

11 (112) "Department" means the state department of health and welfare.

12 (123) "Director" means the director of the department of health and wel-  
13 fare.

14 (14) "Division" means the division of occupational and professional li-  
15 censes.

16 (135) "Foster care" means child care by a person not related to the  
17 child, in lieu of parental care, in a foster home.

18 (146) "Foster home" means a home which accepts, for any period of time,  
19 with or without compensation, one (1) or more children who are not related  
20 to the foster parent as members of the household for the purpose of providing  
21 substitute parental care.

22 (157) "Group care" means foster care of a number of children for whom  
23 child care in a family setting is not available or appropriate, in a dormi-  
24 tory or cottage type setting, characterized by activities and discipline of  
25 a more regimented and less formal nature than found in a family setting.

26 (168) "Juvenile detention" is as defined in section 20-502(7), Idaho  
27 Code, of the juvenile corrections act.

28 (179) "Juvenile detention center" means a facility established pur-  
29 suant to sections 20-517 and 20-518, Idaho Code.

30 (1820) "Person" includes any individual, group of individuals, associ-  
31 ation, partnership, limited liability company or corporation.

32 (1921) "Placement" means finding a suitable licensed foster home or  
33 suitable adoptive home for a child and completing the arrangements for a  
34 child to be accepted into and adjusted to such home.

35 (202) "Relative" means a child's grandparent, great grandparent,  
36 aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, first  
37 cousin, sibling and half-sibling.

38 ~~(21) "Representative" means an employee of the state department of~~  
39 ~~health and welfare.~~

40 (223) "Residential facility" means any facility where child care is  
41 provided, as defined in this section, and which provides day and night accom-  
42 modation.

43 (234) "Residential school" means a residential facility for children  
44 which:

45 (a) Provides a planned, scheduled, regular, academic or vocational  
46 school program for students in the elementary, middle or secondary  
47 grades as defined in section 33-1001, Idaho Code; and

48 (b) Provides services substantially comparable to those provided in  
49 nonresidential public schools where the primary purpose is the educa-  
50 tion and academic pursuits of the students; and

1 (c) Does not seek, receive or enroll students for treatment of such spe-  
 2 cial needs as substance abuse, mental illness, emotional disturbance,  
 3 developmental disability or intellectual disability; and

4 (d) Is not:

5 (i) A college or university; or

6 (ii) A children's camp as defined in this section; or

7 (iii) A public or private day school in which the children leave  
 8 the facility each day at the conclusion of the academic, voca-  
 9 tional and school supervised activities.

10 (245) "Transitional living" means living arrangements and aftercare  
 11 services for children, or as continued care, to gain experience living on  
 12 their own in a supportive and supervised environment prior to emancipation.

13 SECTION 2. That Section 39-1203, Idaho Code, be, and the same is hereby  
 14 amended to read as follows:

15 39-1203. FILING OF DISCLOSURE REPORTS. All children's institutions  
 16 except foster homes shall file ~~with the department~~ a disclosure report as  
 17 designed by the ~~department~~ division and containing only such information as  
 18 set forth in section 39-1204, Idaho Code. All such disclosure reports shall  
 19 be signed under oath by the administrative employee responsible for opera-  
 20 tion of the children's institution.

21 (1) An initial disclosure report shall be filed with the ~~department~~:

22 ~~(a) Within six (6) months of the effective date of this chapter for all~~  
 23 ~~children's institutions which are providing child care on the effective~~  
 24 ~~date of this chapter; or~~

25 ~~(b) At division at least thirty (30) days prior to the acceptance of any~~  
 26 ~~child for child care.~~

27 (2) An annual update disclosure report shall be filed by all children's  
 28 institutions except foster homes each year within thirty (30) days of the an-  
 29 niversary of the filing of the initial disclosure report. The ~~department~~  
 30 division may waive the filing of an annual disclosure report by any chil-  
 31 dren's institution.

32 SECTION 3. That Section 39-1204, Idaho Code, be, and the same is hereby  
 33 amended to read as follows:

34 39-1204. FORM FOR DISCLOSURE REPORT. (1) The ~~department~~ division  
 35 shall design a form for the initial disclosure report ~~which shall contain~~  
 36 that contains only the following information:

37 (a) The name, address and telephone number(s) for each children's  
 38 agency or children's institution.

39 (b) The name(s), address and telephone number(s) of the individual(s)  
 40 in charge at each children's agency or children's institution.

41 (c) The number of children that can be accommodated for child care at  
 42 each children's institution and a description of such accommodations.

43 (d) Whether and how the children's institution seeks, receives or en-  
 44 rolls students for treatment of special needs such as substance abuse,  
 45 mental illness, emotional disturbance, developmental disability, in-  
 46 tellectual disability, or students who have been identified by the ju-

1           dicial system as requiring treatment, therapy, rehabilitation or su-  
2           pervision.

3           (e) A complete description of the child care services to be provided at  
4           each children's institution.

5           (f) Whether and how the children's institution expects to receive pay-  
6           ment, including payment from health insurance carriers, for identified  
7           treatment needs such as substance abuse, mental illness, emotional dis-  
8           turbance, developmental disability, or intellectual disability.

9           (g) Whether and how the children's institution represents to the payor  
10          of the child care services provided by the children's institution that  
11          such payment may qualify for health insurance reimbursement by the  
12          payor's carrier or may qualify for tax benefits relating to medical ser-  
13          vices.

14          (h) A description of the educational programs provided at each chil-  
15          dren's institution and their accreditation status.

16          (2) The ~~department~~ division shall design a form for the annual update  
17          disclosure report which shall reference the information provided in the ini-  
18          tial disclosure report and shall request identification of any changes in  
19          the information provided on the initial report or the previous annual update  
20          disclosure report.

21           SECTION 4. That Section 39-1205, Idaho Code, be, and the same is hereby  
22           amended to read as follows:

23           39-1205. EVALUATION OF DISCLOSURE REPORTS. (1) The ~~department~~  
24           division shall review all initial and annual update disclosure reports and  
25           shall categorize each children's institution, based on the type of care pro-  
26           vided, into one (1) of the following categories:

27           ~~(1) Foster homes;~~

28           ~~(2a)~~ Residential schools;

29           ~~(3b)~~ Children's camps; or

30           ~~(4c)~~ Children's therapeutic outdoor ~~program; or~~ programs.

31           ~~(5)~~ Each children's institution not otherwise categorized in subsec-  
32           tions ~~(1) through (4)~~ of this section, except any day school, shall be desig-  
33           nated as a "children's residential care facility."

34           SECTION 5. That Section 39-1207, Idaho Code, be, and the same is hereby  
35           amended to read as follows:

36           39-1207. RESIDENTIAL SCHOOLS. (1) Upon receipt of an initial disclo-  
37           sure report from a children's institution that the ~~department~~ division cat-  
38           egorizes as a residential school, the ~~department~~ division shall provide a  
39           copy of such initial disclosure report to the Idaho department of education.

40           (2) The Idaho department of education shall certify to the ~~department~~  
41           division whether each residential school has been accredited according to  
42           the accrediting standards promulgated by the Idaho department of education,  
43           the Idaho state board of education or a secular or religious accrediting as-  
44           sociation recognized by the Idaho department of education.

45           (3) If a residential school has been certified as accredited under sub-  
46           section (2) of this section, then the ~~department shall exercise no~~ division  
47           does not have any further jurisdiction under this chapter over that accred-

1 ited residential school ~~so~~ as long as the accreditation for the residential  
2 school remains in effect.

3 (4) Upon certification of accreditation, the Idaho department of edu-  
4 cation shall notify the accredited residential school that all future update  
5 disclosure reports or other reports as the Idaho department of education may  
6 require shall be filed with the Idaho department of education ~~so~~ as long as  
7 the accreditation remains in effect.

8 (5) Upon the determination by the Idaho department of education that a  
9 residential school is no longer accredited, it shall notify the ~~department~~  
10 division and shall notify the residential school that all future update dis-  
11 closure reports must be filed with the ~~department~~ division.

12 (6) A residential school that is not certified or accredited pursuant  
13 to this section or has lost accreditation shall be subject to the jurisdic-  
14 tion of the ~~department~~ division as a children's treatment facility pursuant  
15 to section 39-1210, Idaho Code, unless and until accreditation is certified  
16 by the Idaho department of education pursuant to this section.

17 (7) The ~~department~~ division has the authority to postpone for up to one  
18 (1) year the designation of a nonaccredited residential school as a chil-  
19 dren's treatment facility upon receipt of an affidavit under oath signed by  
20 a legally authorized agent of the nonaccredited residential school that ap-  
21 plication for accreditation has been made to the Idaho department of educa-  
22 tion, the Idaho state board of education or an affiliated accrediting asso-  
23 ciation recognized by the Idaho department of education; and the ~~department~~  
24 division determines that the application is being pursued in good faith.

25 SECTION 6. That Section 39-1208, Idaho Code, be, and the same is hereby  
26 amended to read as follows:

27 39-1208. STANDARDS FOR CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS. The  
28 ~~board administrator~~ shall have the power ~~and it shall be its duty~~ to pro-  
29 mulgate ~~appropriate~~ rules necessary to implement and enforce the following  
30 standards for licensing a children's therapeutic outdoor program:

31 (1) Assure the organizational stability of the program, which may re-  
32 quire incorporation under the laws of Idaho.

33 (2) Require from the policy-making authority of the program the pro-  
34 mulgation of a statement setting forth the program's purposes and objectives  
35 and describing the character and extent of the services which it offers and  
36 maintains, and the geographical area to be served.

37 (3) Require a statement of solvency sufficient to maintain programs and  
38 personnel necessary to achieve its purposes and objectives and to maintain  
39 its services.

40 (4) Assure such recordkeeping and reporting as may be deemed necessary  
41 to the program's services and to the ~~department's~~ division's licensing re-  
42 sponsibility.

43 (5) Assure the safety and physical care of children for whom the program  
44 assumes or accepts responsibility.

45 (6) Establish the legal status of each child accepted for care and the  
46 legal authority and responsibility of the program for the child.

47 (7) Require a statement of intake policy which shall set forth criteria  
48 for accepting children for care or service in relation to the program's pur-  
49 poses and physical demands.

1           (8) The ~~department~~ division shall obtain a criminal history check on  
2 the owners, operators and employees of all children's therapeutic outdoor  
3 programs. The criminal history check shall be fingerprint based and include  
4 the following:

- 5           (a) Statewide criminal identification bureau;  
6           (b) Federal bureau of investigation (FBI) criminal history;  
7           (c) National crime information center; and  
8           (d) Statewide child abuse register.

9           SECTION 7. That Section 39-1209, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11           39-1209. STANDARDS FOR CHILDREN'S AGENCIES. The ~~board~~ administrator  
12 shall have the power and ~~it shall be its~~ duty to promulgate ~~appropriate~~ rules  
13 ~~and regulations~~ necessary to implement and enforce the following standards  
14 for licensing children's agencies to:

15           (1) Assure the organizational stability of children's agencies, which  
16 may require incorporation under the laws of this state;

17           (2) Require from the policy-making authority of the agency a statement  
18 setting forth the agency's purposes and objectives and describing the char-  
19 acter and extent of the services which it offers and maintains, and the geo-  
20 graphical area to be served; and

21           (3) Require a statement of financial solvency sufficient to maintain  
22 facilities and personnel necessary to achieve its purposes and objectives  
23 and to maintain its services.

24           SECTION 8. That Section 39-1210, Idaho Code, be, and the same is hereby  
25 amended to read as follows:

26           39-1210. STANDARDS FOR CHILDREN'S RESIDENTIAL CARE FACILITIES. The  
27 ~~board of health and welfare~~ administrator shall have the power and it shall  
28 be its duty to promulgate appropriate rules necessary to implement and en-  
29 force the following standards for licensing a children's residential care  
30 facility:

31           (1) Assure the organizational stability of the facility, which may re-  
32 quire incorporation under the laws of Idaho.

33           (2) Require from the policy-making authority of the facility the pro-  
34 mulgation of a statement setting forth the facility's purposes and objec-  
35 tives and describing the character and extent of the services which it offers  
36 and maintains, and the geographical area to be served.

37           (3) Require a statement of solvency sufficient to maintain facilities  
38 and personnel necessary to achieve its purposes and objectives and to main-  
39 tain its services.

40           (4) Assure such recordkeeping and reporting as may be deemed necessary  
41 to the facility's services and to the ~~department's~~ division's licensing re-  
42 sponsibility.

43           (5) Assure the safety and physical care of children for whom the facil-  
44 ity assumes or accepts responsibility.

45           (6) Establish the legal status of each child accepted for care and the  
46 legal authority and responsibility of the facility for the child.

1 (7) Require a statement of intake policy which shall set forth criteria  
2 for accepting children for care or service in relation to the facility's pur-  
3 poses and facilities.

4 (8) Provide through observation and collateral inquiry for studies of  
5 homes into which children may be placed sufficient to enable a judgment de-  
6 termining the adequacy of the homes in relation to the needs of the children.

7 (9) In the case of an institution specializing in maternity care to un-  
8 married mothers:

9 (a) Assure social services on behalf of both the mother and infant; and

10 (b) Assure protection of the legal rights and rights to confidential  
11 treatment of minor unmarried mothers and their children which shall be  
12 subject to disclosure according to chapter 1, title 74, Idaho Code.

13 (10) The ~~department~~ division shall obtain a criminal history check on  
14 the owners, operators and employees of all children's residential care fa-  
15 cilities. The criminal history check shall include the following:

16 (a) Statewide criminal identification bureau;

17 (b) Federal bureau of investigation (FBI) criminal history;

18 (c) National crime information center; and

19 (d) Statewide child abuse register.

20 SECTION 9. That Section 39-1211, Idaho Code, be, and the same is hereby  
21 amended to read as follows:

22 39-1211. STANDARDS FOR FOSTER HOMES -- BOARD AUTHORIZED TO IMPLEMENT  
23 AND ENFORCE. (1) The board of health and welfare shall have the power, and it  
24 shall be its and duty to promulgate appropriate rules necessary to implement  
25 and enforce the following standards for licensing private foster homes pur-  
26 suant to this chapter. Such rules shall:

27 (1a) Require evidence of income and resources sufficient to maintain  
28 the home and the services offered;

29 (2b) Require such recordkeeping and reporting regarding children's  
30 status and progress as may be deemed necessary;

31 (3c) Assure the safety and adequate physical care of children under  
32 care; and

33 (4d) Require that foster parents be physically and emotionally suited  
34 to care for unrelated children and to deal with problems presented by  
35 children away from their own homes and own parents and shall require a  
36 criminal background check.

37 (2) Any private foster home that applies for a license in the manner and  
38 form prescribed by the board of health and welfare and is found in investi-  
39 gation by the department to be in conformity with the rules and standards es-  
40 tablished by the department under the authority conferred by this chapter  
41 shall be licensed for a period of one (1) year.

42 (3) The board of health and welfare is hereby authorized to promulgate  
43 rules allowing for continued care for appropriate individuals eighteen (18)  
44 to twenty-one (21) years of age who have been receiving services by, through,  
45 or with the authorization of the department of health and welfare or the de-  
46 partment of juvenile corrections prior to their eighteenth birthday.

47 (4) If a licensed foster home desires to apply for a renewal of its li-  
48 cence, an application for renewal shall be filed sixty (60) days prior to the  
49 expiration date of the license in force. When such application for renewal

1 has been made in the proper manner and form, the existing license shall, un-  
2 less officially revoked, remain in force until the department has acted on  
3 the application for renewal.

4 (5) If, upon initial investigation, an applicant for a foster home li-  
5 icense is unable to meet a standard because of conditions that are unlikely to  
6 endure beyond six (6) months from the date of such investigation, then the  
7 department may, if in its judgment the health and safety of any child is not  
8 thereby endangered, issue a provisional license for a period not to exceed  
9 six (6) months. No more than one (1) provisional license shall be issued to  
10 the same foster home in any twelve (12) month period.

11 (6) For the purpose of determining whether any licensed foster home  
12 consistently maintains conformity with the standards established under the  
13 authority conferred in this section, the department, through an authorized  
14 representative, shall visit each such home as often as the department deems  
15 necessary or desirable, but in any event at intervals not to exceed twelve  
16 (12) months.

17 (7) A foster home license issued pursuant to this chapter may be denied,  
18 suspended, revoked, or not renewed by notice in writing by the director or  
19 his authorized representative, served upon the applicant or licensee by reg-  
20 istered or certified mail, setting forth the reasons for the denial, suspen-  
21 sion, revocation, or nonrenewal, if upon investigation it is found that the  
22 licensee has failed or refused to comply with any of the provisions of this  
23 chapter or with any of the rules or standards established pursuant to this  
24 chapter.

25 (a) Within fifteen (15) days from receipt of notice of grounds for de-  
26  denial, suspension, revocation, or nonrenewal, the applicant or licensee  
27 may serve upon the director by registered or certified mail a written  
28 request for hearing. Upon receipt of such request, the director shall  
29 fix a date for hearing, which date shall not be more than thirty (30)  
30 days from receipt of the request and shall give the applicant or li-  
31 icensee at least fifteen (15) days' notice of said hearing date. The  
32 department shall notify the applicant or licensee of the decision of the  
33 director or his authorized representative within thirty (30) days after  
34 conclusion of the hearing.

35 (b) If no request for hearing is made within the time specified, the li-  
36 icense shall be deemed denied, suspended, revoked, or not renewed.

37 (8) If an applicant or licensee of a foster home is aggrieved by a deci-  
38 sion rendered as a result of a hearing, an appeal may be taken to the district  
39 court of the county in which the group or foster home is located, in the man-  
40 ner and form as provided in chapter 52, title 67, Idaho Code. However, the  
41 filing of the notice of appeal shall not, unless otherwise ordered, stay the  
42 proceedings of the director.

43 (9) Notwithstanding the existence or pursuit of any other remedy, the  
44 department shall, upon showing good cause to the prosecuting attorney who  
45 shall represent the department in the proceeding, maintain an action in the  
46 name of the state for injunction or other process against a person as defined  
47 in this chapter who operates or maintains any foster home without first hav-  
48 ing secured a license pursuant to the provisions of this chapter.

49 (10) Upon a finding that the children at a foster home are endangered,  
50 the department has the authority to immediately revoke a license.

1        ~~(11) Provided, however, n~~Nothing in this chapter shall be construed  
2 to cover the occasional or irregular care of a neighbor's, relative's or  
3 friend's child or children by a person not ordinarily engaged in child care.

4        SECTION 10. That Section 39-1212, Idaho Code, be, and the same is hereby  
5 repealed.

6        SECTION 11. That Section 39-1213, Idaho Code, be, and the same is hereby  
7 amended to read as follows:

8        39-1213. LICENSING AUTHORITY. (~~a~~1) ~~The board of health and welfare~~  
9 administrator is hereby authorized and directed to establish procedures  
10 for licensing ~~foster homes,~~ children's agencies, children's therapeutic  
11 outdoor programs and children's residential care facilities ~~which are main-~~  
12 ~~tained and operated in conformity with the rules and standards authorized~~  
13 ~~herein. Such procedures shall include the manner and form for making appli-~~  
14 ~~cation for license, investigation upon application and notice of decision.~~

15        (~~b~~2) It is recognized that licensed children's agencies may have their  
16 own procedure for approval of foster homes affiliated with their program.  
17 Any foster home which has been approved by a licensed children's agency shall  
18 be exempt from the licensing provisions of this chapter, provided that the  
19 standards for approval by such agency are no less restrictive than rules and  
20 standards established by the board of health and welfare, ~~and provided fur-~~  
21 ~~ther that such children's agency is maintained and operated in conformity~~  
22 ~~with rules and standards of the board of health and welfare. The board of~~  
23 ~~health and welfare. The administrator~~ may promulgate rules necessary to im-  
24 plement the provisions of this section.

25        ~~(c) The board of health and welfare is hereby authorized to establish~~  
26 ~~rules allowing for continued care for appropriate individuals eighteen (18)~~  
27 ~~to twenty-one (21) years of age who have been receiving services by, through,~~  
28 ~~or with the authorization of the department of health and welfare or the de-~~  
29 ~~partment of juvenile corrections prior to their eighteenth birthday.~~

30        SECTION 12. That Section 39-1214, Idaho Code, be, and the same is hereby  
31 amended to read as follows:

32        39-1214. ELIGIBILITY FOR LICENSE. ~~Any foster home,~~ A children's  
33 agency, children's therapeutic outdoor program, or children's residen-  
34 tial care facility ~~which that~~ that applies for a license in the manner and form  
35 prescribed by the ~~board of health and welfare~~ division and is found upon in-  
36 vestigation by the ~~department~~ division to be established in conformity with  
37 the rules and standards established by the ~~department~~ division under the  
38 authority conferred herein shall be licensed for a period of one (1) year.

39        SECTION 13. That Section 39-1215, Idaho Code, be, and the same is hereby  
40 amended to read as follows:

41        39-1215. EXPIRATION -- RENEWAL. If a licensee licensed children's  
42 agency, children's therapeutic outdoor program, or children's residential  
43 care facility desires to apply for a renewal of its license, an application  
44 for renewal shall be filed sixty (60) days prior to the expiration date of

1 the license in force. When such application for renewal has been made in  
2 the proper manner and form, the existing license shall, unless officially  
3 revoked, remain in force until the ~~department~~ division has acted on the ap-  
4 plication for renewal.

5 SECTION 14. That Section [39-1216](#), Idaho Code, be, and the same is hereby  
6 repealed.

7 SECTION 15. That Chapter 12, Title 39, Idaho Code, be, and the same is  
8 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
9 ignated as Section 39-1216, Idaho Code, and to read as follows:

10 39-1216. PROVISIONAL LICENSES. If, upon investigation, an appli-  
11 cant for a children's agency, children's therapeutic outdoor program, or  
12 children's residential care facility license is unable to meet a standard  
13 because of conditions that are unlikely to endure beyond six (6) months from  
14 the date of such investigation, the division may, if in its judgment the  
15 health and safety of any child is not thereby endangered, issue a provisional  
16 license for a period not to exceed six (6) months. No more than one (1) pro-  
17 visional license shall be issued to the same children's agency, children's  
18 therapeutic outdoor program, or children's residential care facility in any  
19 twelve (12) month period.

20 SECTION 16. That Section 39-1217, Idaho Code, be, and the same is hereby  
21 amended to read as follows:

22 39-1217. VISITATION. For the purpose of determining whether every  
23 ~~licensed foster home,~~ licensed children's agency, licensed children's ther-  
24 apeutic outdoor program, and licensed children's residential care facility  
25 consistently maintains conformity with the standards established under the  
26 authority conferred herein, the ~~department~~ division, through an authorized  
27 representative, shall visit each such home and facility as often as it deems  
28 necessary or desirable, but in any event at intervals not to exceed twelve  
29 (12) months.

30 SECTION 17. That Section [39-1218](#), Idaho Code, be, and the same is hereby  
31 repealed.

32 SECTION 18. That Chapter 12, Title 39, Idaho Code, be, and the same is  
33 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
34 ignated as Section 39-1218, Idaho Code, and to read as follows:

35 39-1218. LICENSE -- DENIAL -- SUSPENSION -- REVOCATION -- NONRENEWAL  
36 -- HEARING. (1) Any children's agency, children's therapeutic outdoor pro-  
37 gram, or children's residential care facility license issued pursuant to  
38 this chapter may be denied, suspended, revoked, or not renewed by notice in  
39 writing by the administrator or the administrator's authorized represen-  
40 tative, served upon the applicant or licensee by registered or certified  
41 mail, setting forth the reasons for the denial, suspension, revocation, or  
42 nonrenewal, if upon investigation it is found that the licensee has failed

1 or refused to comply with any of the provisions of this chapter or with any of  
2 the rules or standards established pursuant to this chapter.

3 (2) Within fifteen (15) days from receipt of notice of grounds for de-  
4 nial, suspension, revocation, or nonrenewal, the applicant or licensee may  
5 serve upon the administrator by registered or certified mail a written re-  
6 quest for hearing. Upon receipt of such request, the administrator shall  
7 fix a date for hearing, which date shall not be more than thirty (30) days  
8 from receipt of the request and shall give the applicant or licensee at least  
9 fifteen (15) days' notice of said hearing date. The division shall notify  
10 the applicant or licensee of the decision of the administrator or authorized  
11 representative within thirty (30) days after conclusion of the hearing.

12 (3) If no request for hearing is made within the time specified, the li-  
13 cense shall be deemed denied, suspended or revoked or not renewed.

14 SECTION 19. That Section [39-1219](#), Idaho Code, be, and the same is hereby  
15 repealed.

16 SECTION 20. That Chapter 12, Title 39, Idaho Code, be, and the same is  
17 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
18 ignated as Section 39-1219, Idaho Code, and to read as follows:

19 39-1219. APPEAL FROM DECISION OF ADMINISTRATOR. If an applicant or li-  
20 censee of a children's agency, children's therapeutic outdoor program, or  
21 children's residential care facility is aggrieved by a decision rendered as  
22 a result of a hearing, as provided in section 39-1218, Idaho Code, appeal may  
23 be taken to the district court of the county in which the facility, program,  
24 or agency is located, in the manner and form provided in chapter 52, title 67,  
25 Idaho Code. However, the filing of a notice of appeal shall not, unless oth-  
26 erwise ordered, stay the proceedings of the administrator.

27 SECTION 21. That Section 39-1221, Idaho Code, be, and the same is hereby  
28 amended to read as follows:

29 39-1221. REMOVAL OF CHILDREN. Any child or children receiving child  
30 care in a children's residential care facility or children's therapeutic  
31 outdoor program found to be operating without a license may be removed from  
32 such home, agency, or institution upon order of the magistrate court of the  
33 county in which the child is receiving care and returned to the child's own  
34 home, or placed in the custody of the department if the child's custodial  
35 parent is not available. The prosecuting attorneys of the several counties  
36 shall represent the ~~department~~ division at all stages of the proceedings  
37 before the magistrate court in relation to the prosecution of an unlicensed  
38 facility or program. ~~The magistrate court shall retain jurisdiction rel-~~  
39 ~~ative to child custody pursuant to the provisions of this section.~~ Any  
40 placement of a child in the custody of the department shall be made pursuant  
41 to chapter 16, title 16, Idaho Code. In the event that the prosecuting at-  
42 torney in the county where the alleged violation occurred fails or refuses  
43 to act within sixty (60) days of notification of the violation, the attorney  
44 general is authorized to prosecute violations under this chapter.

1 SECTION 22. That Section 39-1222, Idaho Code, be, and the same is hereby  
2 repealed.

3 SECTION 23. That Chapter 12, Title 39, Idaho Code, be, and the same is  
4 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
5 ignated as Section 39-1222, Idaho Code, and to read as follows:

6 39-1222. ACTIONS AGAINST UNLICENSED CHILDREN'S AGENCIES, CHILDREN'S  
7 THERAPEUTIC OUTDOOR PROGRAMS, OR CHILDREN'S RESIDENTIAL CARE FACILI-  
8 TIES. Notwithstanding the existence or pursuit of any other remedy, the  
9 division shall, upon showing good cause to the prosecuting attorney who  
10 shall represent the department or division in the proceeding, maintain an  
11 action in the name of the state for injunction or other process against a  
12 person as defined in this chapter who operates or maintains any children's  
13 agency, children's therapeutic outdoor program, or children's residential  
14 care facility without first having secured a license pursuant to the pro-  
15 visions of this chapter. Upon a finding that the children at a children's  
16 agency, children's therapeutic outdoor program, or children's residential  
17 care facility are endangered, the division has the authority to immediately  
18 revoke a license.

19 SECTION 24. That Section 39-1301, Idaho Code, be, and the same is hereby  
20 amended to read as follows:

21 39-1301. DEFINITIONS. For purposes of this chapter, the following  
22 definitions will apply:

23 (1) "Administrator" means the administrator of the division of occupa-  
24 tional and professional licenses.

25 (2) "Authorized provider" means an individual who is a nurse practi-  
26 tioner or clinical nurse specialist, licensed to practice in Idaho in accor-  
27 dance with the Idaho nurse practice act; or a physician assistant, licensed  
28 by the Idaho state board of medicine.

29 (3) "Division" means the division of occupational and professional li-  
30 censes.

31 (4) "Government unit" means:

32 (a) The state or any department, division, board, or agency of the  
33 state; or

34 (b) A political subdivision or any department, division, board, or  
35 agency of a political subdivision.

36 (5) "Hospice house" means a facility owned and operated by a medicare-  
37 certified hospice agency for the purpose of providing inpatient hospice ser-  
38 vices consistent with 42 CFR 418.110.

39 (a6) "Hospital" means a facility which that:

40 (1a) Is primarily engaged in providing, by or under the supervision of  
41 physicians;

42 (ai) Concentrated medical and nursing care on a twenty-four (24)  
43 hour basis to inpatients experiencing acute illness; and

44 (bii) Diagnostic and therapeutic services for medical diagnosis  
45 and treatment, psychiatric diagnosis and treatment, and care of  
46 injured, disabled, or sick persons; and

1           (eiii) ~~R~~rehabilitation services for injured, disabled, or sick  
2           persons; and

3           ~~(div) O~~bstetrical care~~;~~

4           ~~(2b)~~ Provides for care of two (2) or more individuals for twenty-four  
5           (24) or more consecutive hours~~;~~ or

6           ~~(3c)~~ Is staffed to provide professional nursing care on a twenty-four  
7           (24) hour basis.

8           (7) "Intermediate care facility for people with intellectual disabil-  
9 ities" (ICF/ID) means a nonnursing home facility, designed and operated to  
10 meet the unique educational, training, habilitative, and medical needs of  
11 the developmentally disabled through the provision of active treatment.

12           (8) "Licensing agency" means the division.

13           ~~(b9)~~ "Nursing facility" or ~~("nursing home")~~ means a facility whose  
14 design and function shall provide area, space, and equipment to meet the  
15 health needs of two (2) or more individuals who, at a minimum, require in-  
16 patient care and services for twenty-four (24) or more consecutive hours  
17 for unstable chronic health problems requiring daily professional nursing  
18 supervision and licensed nursing care on a twenty-four (24) hour basis,  
19 restorative, rehabilitative care, and assistance in meeting daily living  
20 needs. Medical supervision is necessary on a regular, but not daily, basis.

21           ~~(c) "Intermediate care facility for people with intellectual disabil-~~  
22 ~~ities (ICF/ID)" means a nonnursing home facility, designed and operated to~~  
23 ~~meet the unique educational, training, habilitative and medical needs of the~~  
24 ~~developmentally disabled through the provision of active treatment.~~

25           ~~(d10)~~ "Person" means any individual, firm, partnership, corporation,  
26 company, association, or joint stock association, and the legal successor  
27 thereof.

28           ~~(e) "Government unit" means the state, or any county, municipality, or~~  
29 ~~other political subdivision, or any department, division, board or other~~  
30 ~~agency thereof.~~

31           ~~(f) "Licensing agency" means the department of health and welfare.~~

32           ~~(g) "Board" means the board of health and welfare.~~

33           ~~(h11)~~ "Physician" means an individual licensed to practice medicine and  
34 surgery by the Idaho state board of medicine or the Idaho state board of podi-  
35 atry.

36           ~~(i) "Authorized provider" means an individual who is a nurse practi-~~  
37 ~~tioner or clinical nurse specialist, licensed to practice in Idaho in ac-~~  
38 ~~cordance with the Idaho nurse practice act; or a physician's assistant, li-~~  
39 ~~icensed by the Idaho state board of medicine.~~

40           ~~(j) "Hospice house" means a facility that is owned and operated by a~~  
41 ~~medicare certified hospice agency for the purpose of providing inpatient~~  
42 ~~hospice services consistent with 42 CFR 418.110.~~

43           SECTION 25. That Section 39-1301A, Idaho Code, be, and the same is  
44 hereby amended to read as follows:

45           39-1301A. WAIVERS FOR CERTIFIED FAMILY HOMES -- DEFINITIONS. (1)  
46 Chapter 13, title 39, Idaho Code, shall not have the effect of preventing two  
47 (2) persons in need of the care described in section 39-1301 ~~(b9)~~, Idaho Code,  
48 from residing in a certified family home when:

1       ~~(a) Each~~ of the persons has given a written statement to the ~~department~~  
2       division requesting the arrangement and each person making the request  
3       is informed, not coerced, and competent; and the division:

4       ~~(ba) The department f~~ Finds the arrangement safe and effective; and

5       ~~(eb) The department i~~ Issues a written waiver permitting the arrange-  
6       ment.

7       (2) The ~~department~~ division shall use ~~negotiated rulemaking when pro-~~  
8       ~~mulgating~~ promulgate rules to carry out the provisions of this section to en-  
9       sure a person's ability to choose services and service provider is consid-  
10      ered.

11      (3) The ~~department~~ division shall revoke any waiver granted pursuant to  
12      this section where it is determined there is a threat to the life or safety of  
13      either person or where one (1) of the persons leaves the living arrangement  
14      permanently or notifies the ~~department~~ division in writing that he does not  
15      wish to reside in the setting with the other individual. Any waiver granted  
16      under this section shall be reviewed annually.

17      SECTION 26. That Section 39-1301B, Idaho Code, be, and the same is  
18      hereby amended to read as follows:

19      39-1301B. NURSING FACILITY CONVERSIONS. (1) A nursing facility that  
20      voluntarily reduces the number of its licensed beds to provide residen-  
21      tial and assisted living services, certified family home services, adult  
22      day health services, respite care, hospice, outpatient therapy services,  
23      congregate meals, home health, senior wellness clinic, or other services  
24      provided under a medicaid home and community-based services waiver for the  
25      aged or disabled may convert the original facility or portion of the facility  
26      back, and thereby increase the number of nursing home beds to no more than  
27      the previously licensed number of nursing home beds provided the facility  
28      has been in continuous operation and has not been purchased or leased. Any  
29      conversion to the original licensed bed capacity, or to any portion thereof,  
30      shall comply with the same life safety code requirements as existed at the  
31      time the nursing facility voluntarily reduced its licensed beds.

32      (2) To convert beds back to nursing facility beds under this section,  
33      the nursing home must:

34      (a) Give notice of its intent to preserve conversion options to the  
35      ~~department~~ division no later than thirty (30) days after the effective  
36      date of the license reduction; and

37      (b) Give notice to the ~~department~~ division and any affected participant  
38      of the intent to convert beds back. If construction is required for the  
39      conversion of beds back, the notice of intent to convert beds back must  
40      be given, at a minimum, one (1) year prior to the effective date of li-  
41      cense modification reflecting the restored beds; otherwise, the notice  
42      must be given a minimum of ninety (90) days prior to the effective date  
43      of license modification reflecting the restored beds.

44      (3) Conversion of beds back to nursing facility use under this section  
45      must be completed no later than four (4) years after the effective date of the  
46      license reduction. However, for good cause shown, the four (4) year period  
47      for conversion may be extended by the ~~department~~ division for an additional  
48      four (4) year period.

1 SECTION 27. That Section 39-1303a, Idaho Code, be, and the same is  
2 hereby amended to read as follows:

3 39-1303a. DEFINITION OF SERVICES AND REGULATION OF FACILITIES IN PRE-  
4 CEDING SECTION. For the purposes of this act, the ~~board~~ administrator shall  
5 have the authority to define the services requisite to the operation of the  
6 facilities defined and to establish rules and regulations and standards for  
7 the licensing of each type of facility and for the administrative personnel  
8 of each type of facility.

9 SECTION 28. That Section 39-1303b, Idaho Code, be, and the same is  
10 hereby amended to read as follows:

11 39-1303b. AGREEMENTS FOR ALLOCATION OF SERVICES BETWEEN NEIGHBORING  
12 HOSPITALS. Hospitals serving the same, or generally the same, geographi-  
13 cal area may, by agreement or other arrangement to eliminate duplication,  
14 allocate as between themselves, in whole or in part, the provision of  
15 those services and facilities defined by the ~~board of health and welfare~~  
16 administrator as requisite to their licensure as hospitals.

17 SECTION 29. That Section 39-1303c, Idaho Code, be, and the same is  
18 hereby amended to read as follows:

19 39-1303c. CURTAILMENT OF REQUIRED SERVICES. Any licensed facility or  
20 agency as defined, upon petition and showing of good cause therefor, to the  
21 satisfaction of the ~~board~~ administrator may reduce, curtail, or eliminate  
22 any service or facility ~~which that~~ might otherwise be required for licensure  
23 ~~by the board~~. A showing that the service or facility is unnecessary by rea-  
24 son of an arrangement with another facility or agency as defined, pursuant to  
25 section 39-1303b, Idaho Code, shall be conclusively deemed to be a showing of  
26 good cause under this section, and any licensed facility or agency as defined  
27 which, prior to January 1, 1976, had already reduced, curtailed or elimi-  
28 nated any service or facility by reason of the same being provided by another  
29 licensed facility or agency as defined, in the same community shall be deemed  
30 to have complied with this section.

31 SECTION 30. That Section 39-1304, Idaho Code, be, and the same is hereby  
32 amended to read as follows:

33 39-1304. APPLICATION FOR LICENSE. An application for a license shall  
34 be made to the licensing agency upon forms provided by it and ~~shall~~ contain  
35 such information as the licensing agency reasonably requires, which may in-  
36 clude affirmative evidence of ability to comply with such reasonable stan-  
37 dards, ~~and rules and regulations~~ as are lawfully prescribed hereunder by the  
38 ~~board of health and welfare~~ administrator.

39 SECTION 31. That Section 39-1306, Idaho Code, be, and the same is hereby  
40 amended to read as follows:

41 39-1306. DENIAL OR REVOCATION OF LICENSE -- HEARINGS AND REVIEW. The  
42 licensing agency may deny any application or revoke any license when per-

1 suaded by evidence that such conditions exist as to endanger the health or  
 2 safety of any resident. Before denial or revocation is final, the licens-  
 3 ing agency shall provide opportunity for a hearing at which time the owner or  
 4 sponsor of any facility or agency, as defined, may appear and show cause why  
 5 the license should not be denied or revoked. The ~~board~~ administrator shall  
 6 provide by rule ~~and regulation~~ a procedure whereby a waiver of a specific  
 7 rule, ~~regulation~~ or standard may be granted in the event that good cause is  
 8 shown for such a waiver and providing that said waiver does not endanger the  
 9 health and safety of any resident. The decision to grant a waiver shall not  
 10 be considered as precedent or be given any force or effect in any other pro-  
 11 ceeding. Said waiver may be renewed annually if sufficient written justi-  
 12 fication is presented to the licensing agency. Hearings for licensure, in-  
 13 cluding denial and revocation, shall be conducted by the licensing agency  
 14 pursuant to chapter 52, title 67, Idaho Code, and appeal shall be as provided  
 15 therein.

16 SECTION 32. That Section 39-1307, Idaho Code, be, and the same is hereby  
 17 amended to read as follows:

18 39-1307. RULES, ~~REGULATIONS,~~ AND ENFORCEMENT. (1) The ~~board~~  
 19 administrator shall have the authority to adopt, amend, and enforce rules,  
 20 ~~regulations,~~ and standards consistent with the provisions of this chapter  
 21 that are designed to protect the health and safety of patients being cared  
 22 for in facilities or agencies as defined.

23 (2) The ~~board of health and welfare, with the advice of the advisory~~  
 24 ~~hospital council,~~ administrator shall adopt, amend, promulgate, and enforce  
 25 such rules, ~~regulations,~~ and standards with respect to all hospitals or dif-  
 26 ferent types of hospitals to be licensed hereunder as may be designed to fur-  
 27 ther the accomplishment of the purposes of this chapter in promoting safe  
 28 and adequate treatment of individuals in hospitals in the interest of public  
 29 health, safety, and welfare. Any such rules, ~~regulations,~~ and standards is-  
 30 sued under this chapter that are more restrictive than medicare conditions  
 31 of participation shall not apply to hospitals that are certified by medi-  
 32 care, through accreditation, survey, or otherwise, to participate in the  
 33 medicare program. Provided further that nothing in this chapter or the rules  
 34 and regulations adopted pursuant thereto shall be construed as authorizing  
 35 the supervision, regulation, or control of the remedial care or treatment of  
 36 residents or patients in any home, facility, or agency as defined, conducted  
 37 for those who rely upon treatment by prayer or spiritual means in accordance  
 38 with the creed or tenets of any well-recognized church or religious denomi-  
 39 nation except as to sanitary and safe conditions of the premises, cleanli-  
 40 ness of operation, and its physical equipment.

41 SECTION 33. That Section 39-1307A, Idaho Code, be, and the same is  
 42 hereby amended to read as follows:

43 39-1307A. FOOD PURCHASING AND STORAGE. Rules, ~~regulations~~ and minimum  
 44 standards adopted by the ~~board~~ administrator governing skilled nursing fa-  
 45 cilities or intermediate care facilities may provide requirements for food  
 46 purchasing and storage, ~~except that no rule, regulation or minimum standard~~

1 ~~may limit the maximum size of a container in which milk for drinking purposes~~  
2 ~~may be purchased.~~

3 SECTION 34. That Section 39-1307B, Idaho Code, be, and the same is  
4 hereby amended to read as follows:

5 39-1307B. MINIMUM STAFFING REQUIREMENTS. The ~~board~~ administrator  
6 shall make no rule designed to limit the work activities of any person reg-  
7 ularly assigned to duty as nursing or auxiliary personnel preceding the  
8 assignment within the facility governed by the rules, ~~regulations~~ and mini-  
9 mum standards of the ~~board~~ administrator.

10 SECTION 35. That Section 39-1402, Idaho Code, be, and the same is hereby  
11 amended to read as follows:

12 39-1402. DEFINITIONS. As used in this act:

13 (1) "Administrator" means the administrator of the division of occupa-  
14 tional and professional licenses.

15 (a2) "Agency" means the ~~department of health and welfare;~~ division of  
16 occupational and professional licenses.

17 (3) "Division" means the division of occupational and professional li-  
18 censes.

19 ~~(b4) "Federal act" shall means, when applicable, either:~~

20 ~~(1a) Public Law 725 of the 79th Congress, approved August 13, 1946,~~  
21 ~~entitled titled the Hospital Survey and Construction Act, and~~  
22 ~~amendments thereto; ~~or~~~~

23 ~~(2b) Public law 88-164, the Mental Retardation Facilities and~~  
24 ~~Community Mental Health Centers Construction Act of 1963, Public~~  
25 ~~Law 88-164, and amendments thereto; ~~or~~~~

26 ~~(3c) Public Law 91-517 of the 91st Congress, and amendments thereto.~~

27 ~~(c) "Surgeon general" means the surgeon general of the United States~~  
28 ~~department of health and human services;~~

29 ~~(d5) "Health facilities" shall means any of the following:~~

30 ~~(1a) A hospital. "Hospital" means a place devoted primarily to the~~  
31 ~~maintenance and operation of facilities for the diagnosis, treatment,~~  
32 ~~or care for not less than twenty-four (24) hours in any week of two (2)~~  
33 ~~or more ~~nonrelated~~ unrelated individuals suffering from illness, dis-~~  
34 ~~ease, injury, or deformity, or requiring care because of old age, or a~~  
35 ~~place devoted primarily to providing for not less than twenty-four (24)~~  
36 ~~hours in any week of obstetrical or other medical or nursing care for two~~  
37 ~~(2) or more ~~nonrelated~~ unrelated individuals. The term "hospital" in-~~  
38 ~~cludes public health centers in general, tuberculosis, mental, chronic~~  
39 ~~disease and other types of hospitals, and related facilities, such as~~  
40 ~~laboratories, outpatient departments, nurses' home and training fa-~~  
41 ~~ilities, and central service facilities operated in connection with~~  
42 ~~hospitals;~~

43 ~~(2b) A facility for the provision of public health services, including~~  
44 ~~related facilities such as laboratories, clinics, and administrative~~  
45 ~~offices operated in connection with said facility;~~

46 ~~(3c) A facility specially designed for the diagnosis, treatment, ed-~~  
47 ~~ucation, training, or custodial care of people with intellectual dis-~~

1 abilities, including facilities for training specialists and sheltered  
 2 workshops for people with intellectual disabilities, but only if such  
 3 workshops are part of facilities ~~which that~~ provide or will provide com-  
 4 prehensive services for people with intellectual disabilities; or

5 (4d) A facility providing services for the prevention or diagnosis of  
 6 mental illness, or care and treatment of mentally ill patients, or re-  
 7 habilitation of such persons, which services are provided principally  
 8 for persons residing in a particular community or communities in or near  
 9 which the facility is situated or at a statewide facility.

10 (6) "Nonprofit facility" means a facility owned and operated by one (1)  
 11 or more nonprofit corporations or associations, no part of the net earnings  
 12 of which inures, or may lawfully inure, to the benefit of any private share-  
 13 holder or individual.

14 (e7) "Secretary" means the secretary of health and human services of  
 15 the United States, or his delegate to administer the federal act;

16 ~~(f) "Nonprofit facility" means a facility which is owned and operated~~  
 17 ~~by one (1) or more nonprofit corporations or associations no part of the net~~  
 18 ~~earnings of which inures, or may lawfully inure, to the benefit of any pri-~~  
 19 ~~ivate shareholder or individual.~~

20 (8) "Surgeon general" means the surgeon general of the United States  
 21 department of health and human services.

22 SECTION 36. That Section [39-1403](#), Idaho Code, be, and the same is hereby  
 23 repealed.

24 SECTION 37. That Section 39-1404, Idaho Code, be, and the same is hereby  
 25 amended to read as follows:

26 39-1404. GENERAL POWERS AND DUTIES. In carrying out the purposes of  
 27 the act, the agency is authorized and directed:

28 (a1) To require such reports, inspections and investigations and pre-  
 29 scribe such ~~regulations~~ rules as it deems necessary;

30 (b2) ~~To provide such methods of administration, appoint a director and~~  
 31 ~~other personnel of the division on a merit basis and take such other action~~  
 32 as may be necessary to comply with the requirements of the federal act and the  
 33 regulations thereunder;

34 (e3) To procure in its discretion the temporary or intermittent ser-  
 35 vices of experts or consultants or organizations thereof, by contract, when  
 36 such services are to be performed on a part-time or fee-for-service basis and  
 37 do not involve the performance of administrative duties;

38 (d4) To the extent that it considers desirable to effectuate the pur-  
 39 poses of this act, to enter into agreements for the utilization of the facil-  
 40 ities and services of other departments, agencies, and institutions, public  
 41 or private;

42 (e5) To accept on behalf of the state and to deposit with the state trea-  
 43 sury any grant, gift or contribution made to assist in meeting the cost of  
 44 carrying out the purposes of this act as herein provided;

45 (f6) To make a bi-annual report to the legislature on activities and ex-  
 46 penditures pursuant to this act, including recommendations for such addi-  
 47 tional legislation as the agency considers appropriate to furnish adequate  
 48 health facilities to the people of this state; and

1           (§7) To do all other things on behalf of the state necessary to obtain  
2 full benefits under the federal act as now and hereafter amended.

3           SECTION 38. That Section 39-2401, Idaho Code, be, and the same is hereby  
4 amended to read as follows:

5           39-2401. PURPOSE AND AUTHORITY. (1) The purpose of this chapter is to  
6 provide for the development, establishment, and enforcement of standards  
7 for the care and treatment of individuals by agencies as provided by this  
8 chapter.

9           (2) For the purposes of this chapter, the ~~board of health and welfare~~  
10 administrator of the division of occupational and professional licenses,  
11 in consultation with provider representatives, shall have the authority to  
12 define the services necessary to the operation of an agency, and to adopt  
13 rules, ~~regulations~~ and standards for the licensing of an agency.

14          SECTION 39. That Section 39-2402, Idaho Code, be, and the same is hereby  
15 amended to read as follows:

16          39-2402. DEFINITIONS. As used in this chapter:

17          (1) ~~"Board" means the board of health and welfare.~~ "Administrator"  
18 means the administrator of the division of occupational and professional  
19 licenses.

20          (2) "Business entity" means a public or private organization owned or  
21 operated by one (1) or more persons.

22          (3) ~~"Department" means the department of health and welfare.~~  
23 "Division" means the division of occupational and professional licenses.

24          (4) "Health care services" means any of the following services that are  
25 provided at the residence of an individual:

- 26           (a) Skilled nursing services;
- 27           (b) Homemaker/home health aide services;
- 28           (c) Physical therapy services;
- 29           (d) Occupational therapy services;
- 30           (e) Speech therapy services;
- 31           (f) Nutritional services;
- 32           (g) Respiratory therapy services;
- 33           (h) Medical/social services; and
- 34           (i) Such other related services as may be authorized by ~~regulation~~ rule  
35 of the ~~board of health and welfare~~ administrator.

36          (5) "Home health agency" means any business entity that primarily pro-  
37 vides skilled nursing services by licensed nurses and at least one (1) other  
38 health care service to an individual in that individual's place of resi-  
39 dence.

40          (6) "Individual" means a natural person who is a recipient of provided  
41 health care services.

42          (7) "Skilled nursing services" means those services provided by a state  
43 licensed nurse for the purpose of promoting, maintaining, or restoring the  
44 health of an individual or to minimize the effects of injury, illness, or  
45 disability.

1 SECTION 40. That Section 39-2403, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 39-2403. LICENSURE REQUIRED. ~~After January 1, 1993, no~~ No private  
4 or public agency or organization may advertise, operate, manage, conduct,  
5 open, maintain, or hold itself out to the public to be a home health agency  
6 unless licensed by the ~~department of health and welfare~~ division. The  
7 ~~department~~ division may grant licenses without conducting a licensure sur-  
8 vey to medicare-certified agencies or agencies currently accredited by an  
9 accrediting body recognized by the ~~health care financing administration~~  
10 centers for medicare and medicaid services pursuant to rules and regulations  
11 developed by the ~~board administrator~~ prescribing the conditions under which  
12 these actions are made.

13 SECTION 41. That Section 39-2404, Idaho Code, be, and the same is hereby  
14 amended to read as follows:

15 39-2404. APPLICATION -- ISSUANCE -- RENEWAL -- DENIAL. (1) An applica-  
16 tion for a license shall be made to the ~~department~~ division upon forms pro-  
17 vided by it and shall contain such information as it reasonably requires,  
18 which may include affirmative evidence of ability to comply with such rea-  
19 sonable standards, ~~and rules and regulations~~ as are lawfully adopted by the  
20 ~~board of health and welfare administrator~~.

21 (2) Upon receipt of an application for license, the ~~department~~ division  
22 shall issue a license if the applicant meets the requirements established  
23 under this chapter. A license, unless suspended or revoked, shall be re-  
24 newable each and every year upon filing by the licensee, and approval by  
25 the ~~department~~ division, of an annual report upon such uniform dates and  
26 containing such information in such form as the ~~board administrator~~ pre-  
27 scribes by regulation rule. Each license shall be issued only for the  
28 premises and persons or governmental units named in the application and  
29 shall not be transferable or assignable except with the written approval of  
30 the ~~department~~ division. Licenses shall be posted in a conspicuous place on  
31 the licensed premises.

32 (3) The ~~department~~ division may deny any application or revoke any li-  
33 cense when persuaded by evidence that such conditions exist as to endanger  
34 the health or safety of any patient, or which will violate the patients'  
35 bill of rights, or the home health agency does not meet requirements for  
36 licensure to the extent that it hinders its ability to provide quality ser-  
37 vices that comply with rules ~~and regulations~~ for home health agencies, or  
38 the home health agency has a history of repeat deficiencies. Before denial  
39 or revocation is final, the ~~department~~ division shall provide opportunity  
40 for a hearing at which time the owner or sponsor of an agency may appear  
41 and show cause why the license should not be denied or revoked. The ~~board~~  
42 administrator shall provide by rule ~~and regulation~~ a procedure whereby a  
43 waiver of a specific rule, ~~regulation~~ or standard may be granted in the event  
44 that good cause is shown for such a waiver and providing that said waiver  
45 does not endanger the health, safety or rights of any patient. The decision  
46 to grant a waiver shall not be considered as precedent or be given any force  
47 or effect in any other proceeding. Said waiver may be renewed annually if  
48 sufficient written justification is presented to the ~~department~~ division.

1 Hearings for licensure, including denial and revocation, shall be conducted  
2 by the ~~department~~ division pursuant to chapter 52, title 67, Idaho Code, and  
3 appeal shall be as provided therein.

4 SECTION 42. That Section 39-2405, Idaho Code, be, and the same is hereby  
5 amended to read as follows:

6 39-2405. RULES, ~~REGULATIONS,~~ AND ENFORCEMENT. The ~~board of health and~~  
7 ~~welfare, with the advice of the advisory board of home health providers,~~  
8 administrator shall have the authority to adopt, amend, and enforce such  
9 rules, ~~regulations~~ and standards with respect to all home health agencies to  
10 be licensed under the provision of this chapter as are designed to further  
11 the accomplishment of the purposes of this chapter in promoting safe and  
12 adequate treatment of individuals by home health agencies in the interest of  
13 public health, safety and welfare.

14 ~~Provided that~~ However, nothing in this chapter or the rules and ~~regu-~~  
15 ~~lations~~ adopted pursuant thereto shall be construed as authorizing the su-  
16 pervision, regulation, or control of the remedial care or treatment of res-  
17 idents or patients in any home, facility, or agency, ~~conducted~~ for those who  
18 rely upon treatment by prayer or spiritual means in accordance with the creed  
19 or tenets of any well-recognized church or religious denomination.

20 SECTION 43. That Section 39-2407, Idaho Code, be, and the same is hereby  
21 amended to read as follows:

22 39-2407. INFORMATION CONFIDENTIAL. Information received by the  
23 ~~department~~ division through filed reports, ~~or~~ inspection, or as otherwise  
24 authorized under this chapter, shall not be disclosed publicly in such a  
25 manner as to identify individual patients of agencies, except in a proceed-  
26 ing involving the question of licensure. Public disclosure of information  
27 obtained by the ~~department~~ division for the purposes of this chapter shall  
28 be governed by rules and ~~regulations~~ adopted by the board. Nothing in this  
29 chapter, however, shall be construed, nor shall any rule ~~or regulation~~ be  
30 promulgated under this section, as to impair, restrict, or alter the confi-  
31 dentiality and privilege afforded the physician and patient communications,  
32 including without limitation, documentation thereof in records of agencies,  
33 or communications to and with nurses or other assisting persons or entities,  
34 nor shall this chapter be construed to amend by implication such physi-  
35 cian-patient communication privilege as provided elsewhere in this code,  
36 including without limitation, section 9-203(4), Idaho Code, which shall  
37 remain inviolate.

38 SECTION 44. That Section 39-2408, Idaho Code, be, and the same is hereby  
39 amended to read as follows:

40 39-2408. INJUNCTION TO PREVENT OPERATION WITHOUT LICENSE. (1)  
41 Notwithstanding the existence or pursuit of any other remedy, the ~~department~~  
42 division may in the manner provided by law maintain an action in the name of  
43 the state for injunction or other process against any person or governmental  
44 unit to restrain or prevent the establishment, conduct, management, or oper-  
45 ation of an agency without a license required under this chapter.

1           (2) ~~The department division~~ shall be represented by the county prosecu-  
2 tor of the county in which the violation occurs or by the office of the attor-  
3 ney general.

4           SECTION 45. That Section 39-3302, Idaho Code, be, and the same is hereby  
5 amended to read as follows:

6           39-3302. DEFINITIONS. As used in this chapter:

7           (1) "Abuse" means a nonaccidental act of sexual, physical or mental  
8 mistreatment or injury of a resident through the action or inaction of an-  
9 other individual.

10          (2) "Accreditation" means a process of review that allows health care  
11 organizations to meet regulatory requirements and standards established by  
12 a recognized accreditation organization.

13          (3) "Accreditation commission" means the commission on accreditation  
14 of rehabilitation facilities (CARF), the joint commission, or another na-  
15 tionally recognized accreditation organization approved by the ~~director~~  
16 administrator of the division of occupational and professional licenses.

17          (4) "Activities of daily living" means the performance of basic self-  
18 care activities in meeting an individual's needs to sustain him in a daily  
19 living environment.

20          (5) "Administrator" means an individual, properly licensed by the  
21 ~~bureau division~~ of occupational licensing and professional licenses, who  
22 is responsible for day-to-day operation of a residential care or assisted  
23 living facility.

24          (6) "Adult" means a person who has attained the age of eighteen (18)  
25 years.

26          (7) "Advocate" means an authorized or designated representative of a  
27 program or organization operating under federal or state mandate to repre-  
28 sent the interests of mentally ill, developmentally disabled, or elderly  
29 residents.

30          (8) "Assessment" means the conclusion reached using uniform criteria,  
31 which identifies resident strengths, weaknesses, risks and needs, to in-  
32 clude functional, medical and behavioral needs. The assessment criteria  
33 shall be developed by the ~~department division of occupational and profes-~~  
34 sional licenses and residential care or assisted living the community care  
35 advisory council.

36          (9) "Authorized provider" in this chapter means an individual who is a  
37 nurse practitioner or clinical nurse specialist or a physician assistant.

38          (10) ~~"Board" means the board of health and welfare.~~

39          ~~(11)~~ "Chemical restraint" means a medication used to control behavior  
40 or to restrict freedom of movement and is not a standard treatment for the  
41 resident's condition.

42          ~~(12)~~ "Core issues" means abuse, neglect, exploitation, inadequate  
43 care, a situation in which the facility has operated for more than thirty  
44 (30) days without a licensed administrator designated the responsibility  
45 for the day-to-day operations of the facility, inoperable fire detection or  
46 extinguishing systems with no fire watch in place pending the correction of  
47 the system, and surveyors denied access to records, residents or facilities.

48          ~~(13) "Department" means the Idaho department of health and welfare.~~

1       ~~(14) "Director" means the director of the Idaho department of health and~~  
2 ~~welfare.~~

3       (12) "Division" means the division of occupational and professional li-  
4 licenses.

5       (13) "Division administrator" means the administrator of the division  
6 of occupational and professional licenses.

7       (154) "Exploitation" means the misuse of a resident's funds, property,  
8 resources, identity or person for profit or advantage.

9       (165) "Facility" means a residential care or assisted living facility.

10       (176) "Governmental unit" means the state, any county, any city, other  
11 political subdivision, or any department, division, board, or other agency  
12 thereof.

13       (187) "Inadequate care" occurs when a facility fails to provide the ser-  
14 vices required to meet the terms of the negotiated service agreement or pro-  
15 vide for room, board, activities of daily living, supervision, first aid,  
16 assistance and monitoring of medications, emergency intervention, coordi-  
17 nation of outside services, a safe living environment; or engages in viola-  
18 tions of residents' rights, or takes residents who have been admitted in vio-  
19 lation of the provisions of section 39-3307, Idaho Code.

20       (198) "License" means a basic permit to operate a residential care or  
21 assisted living facility.

22       (2019) "Licensee" means the owner of a license to operate a residential  
23 care or assisted living facility under this chapter.

24       ~~(21) "Licensing agency" means the unit of the department of health and~~  
25 ~~welfare that conducts inspections and surveys and issues licenses based on~~  
26 ~~compliance with this chapter.~~

27       (220) "Neglect" means failure to provide food, clothing, shelter, or  
28 medical care necessary to sustain the life and health of a resident.

29       (231) "Negotiated service agreement" means the agreement reached by the  
30 resident and/or the resident's representative and the facility, based on the  
31 assessment, physician's orders, admission records, and desires of the res-  
32 ident, and which outlines services to be provided and the obligations of the  
33 facility and the resident.

34       (242) "Personal assistance" means the provision by the staff of the fa-  
35 cility of one (1) or more of the following services:

36       (a) Assisting the resident with activities of daily living;

37       (b) Arranging for supportive services;

38       (c) Being aware of the resident's general whereabouts; and

39       (d) Monitoring the activities of the resident while on the premises of  
40 the facility to ensure the resident's health, safety and well-being.

41       (253) "Political subdivision" means a city or county.

42       (264) "Resident" means an adult who lives in a residential care or as-  
43 sisted living facility.

44       (275) "Residential care or assisted living facility" means a facility  
45 or residence, however named, operated on either a profit or nonprofit basis  
46 for the purpose of providing necessary supervision, personal assistance,  
47 meals and lodging to three (3) or more adults not related to the owner.

48       (286) "Room and board" means lodging and meals.

49       (297) "Substantial compliance" means a facility has no core issue defi-  
50 ciencies.

1           (3028) "Supervision" means administrative activity which provides  
2 the following: protection, guidance, knowledge of the resident's general  
3 whereabouts, and assistance with activities of daily living. The adminis-  
4 trator is responsible for providing appropriate supervision based on each  
5 resident's negotiated service agreement or other legal requirements.

6           (3129) "Supportive services" means the specific services that are pro-  
7 vided to the resident in the community.

8           SECTION 46. That Section 39-3303, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10           39-3303. PAYMENT LEVELS. (1) Clients of the ~~department~~ division who  
11 are receiving financial aid as set out in sections 56-207, 56-208, and  
12 56-209a, Idaho Code, seeking placement in a residential care or assisted  
13 living facility will be assessed by the ~~department~~ division regarding their  
14 need for specific types of services and supports. This assessment will de-  
15 termine the reimbursement rate to the service provider.

16           Eligible participants must be allowed to choose the facility or ser-  
17 vices that are appropriate to meet their medical needs and financial ability  
18 to pay. The ~~department~~ division shall promulgate rules outlining the pay-  
19 ment policy and calculations for clients of the ~~department~~ division through  
20 negotiated rulemaking.

21           (2) Residents who are not clients of the ~~department~~ division shall:

22           (a) Be assessed by the facility regarding their need for specific types  
23 of services and supports. This assessment, and the individual negoti-  
24 ated service agreement, shall determine the rate charged to the resi-  
25 dent.

26           (b) Receive a full description of services provided by the facility and  
27 associated costs upon admission, according to facility policies and  
28 procedures. A thirty (30) day notice must be provided prior to a change  
29 in facility billing practices or policies. Billing practices shall be  
30 transparent and understandable.

31           (c) Be charged for the use of furnishings, equipment, supplies and ba-  
32 sic services as agreed upon in the negotiated service agreement or as  
33 identified in the admission agreement.

34           SECTION 47. That Section 39-3305, Idaho Code, be, and the same is hereby  
35 amended to read as follows:

36           39-3305. RULES. (1) The ~~board~~ division administrator shall have the  
37 authority to adopt, amend, repeal, and enforce such rules as may be necessary  
38 or proper to carry out the purpose and intent of this chapter ~~which~~ that are  
39 designed to protect the health, safety, and individual rights of residents  
40 in residential care or assisted living facilities. The ~~department~~ division  
41 shall exercise the powers and perform the duties conferred upon it by this  
42 chapter, not inconsistent with any statute of this state. These rules shall  
43 be promulgated in accordance with the provisions of the Idaho administrative  
44 procedure act. The ~~department~~ division shall, through negotiated rulemak-  
45 ing, promulgate rules in the following areas:

46           (a) Minimum criteria for the assessment;

47           (b) Minimum criteria for the negotiated service agreement;

- 1 (c) Guidelines for the facility's physical environment and location;  
 2 (d) Criteria for the facility's license, to include:  
 3 (i) Initial license application criteria and procedures;  
 4 (ii) License renewal criteria, procedures and timing;  
 5 (iii) Inspection criteria and procedures;  
 6 (iv) Denial and revocation of license criteria and procedures;  
 7 and  
 8 (v) Effect of previous revocation or denial of license.  
 9 (e) Remedy and enforcement provisions for noncompliance with statute.  
 10 (2) Rules shall be drafted and promulgated following negotiation with  
 11 interested providers, assisted living nurse associations and advocates.

12 SECTION 48. That Section 39-3307, Idaho Code, be, and the same is hereby  
 13 amended to read as follows:

14 39-3307. ADMISSIONS. (1) A residential care or assisted living fa-  
 15 cility shall not admit or retain any resident requiring a level of services  
 16 or type of service for which the facility is not licensed or which the fa-  
 17 cility does not provide or arrange for, or if the facility does not have  
 18 the staff, appropriate in numbers and with appropriate skills, to provide.  
 19 Prospective residents will also be informed of options and rights available  
 20 through other programs, to include medicare benefits where applicable. The  
 21 ~~department~~ division shall provide forms for this.

22 (2) The ~~department~~ division shall develop rules governing admissions  
 23 to residential care or assisted living facilities.

24 SECTION 49. That Section 39-3308, Idaho Code, be, and the same is hereby  
 25 amended to read as follows:

26 39-3308. ASSESSMENT. The ~~department~~ division shall employ uniform as-  
 27 sessment criteria to assess function and cognitive disability. The conclu-  
 28 sions shall be deemed the assessment and shall be used to provide appropri-  
 29 ate placement and funding for service needs. The assessment shall also be  
 30 used to ensure funding is cost-effective and appropriate when compared to  
 31 other state programs relevant to the needs of the client being assessed. The  
 32 ~~department~~ division shall develop rules regarding:

- 33 (1) Qualifications of persons making the assessments.  
 34 (2) ~~Department's~~ The division's responsibility for state pay clients.  
 35 (3) Time frames for completing an assessment.  
 36 (4) Information to be included in an assessment.  
 37 (5) Use of an assessment in developing the negotiated service agree-  
 38 ment.  
 39 (6) Use of assessments in determining facility staffing ratios.  
 40 (7) Use of assessments for determining the ability of provider and fa-  
 41 cility to meet residents' needs and special training or licenses that may be  
 42 required in caring for certain residents.

43 SECTION 50. That Section 39-3313, Idaho Code, be, and the same is hereby  
 44 amended to read as follows:

1 39-3313. ADMISSION AGREEMENTS. (1) Upon admission to a residential  
 2 care or assisted living facility, the facility and the resident shall enter  
 3 into an admission agreement. The admission agreement shall clearly outline  
 4 who is financially responsible for resident charges and shall clearly out-  
 5 line the facility's resident discharge policies. The agreement shall be in  
 6 writing and shall be signed by both parties. The ~~board~~ division adminis-  
 7 trator shall promulgate rules governing admission agreements which may be  
 8 integrated with the negotiated service agreement.

9 (2) A resident may be discharged for the following:

10 (a) A resident's failure to pay;

11 (b) The facility's inability to meet the resident's needs;

12 (c) The resident's needs are greater than the level of care provided by  
 13 the specific facility;

14 (d) The resident is a danger to himself or others.

15 (3) A resident shall have the right to appeal a discharge as established  
 16 by ~~department~~ division rule.

17 (4) Should a residential care or assisted living facility choose not  
 18 to carry professional liability insurance, that information shall be dis-  
 19 closed, in writing, to residents upon admission.

20 SECTION 51. That Section 39-3314, Idaho Code, be, and the same is hereby  
 21 amended to read as follows:

22 39-3314. TERMINATION OF ADMISSION AGREEMENTS. Admission agreements  
 23 may ~~only~~ be terminated only pursuant to rules promulgated by the ~~board~~  
 24 division administrator.

25 SECTION 52. That Section 39-3315, Idaho Code, be, and the same is hereby  
 26 amended to read as follows:

27 39-3315. ADMISSION RECORDS. (1) Records required for admission to a  
 28 facility shall be maintained and updated for administrative purposes only  
 29 and shall be confidential. Their availability, subject to ~~Idaho department~~  
 30 ~~of health and welfare rules, chapter 1, title 5~~ division rules, shall be  
 31 limited to administration, professional consultants, the resident's physi-  
 32 cian or authorized provider, and representatives of the ~~licensing agency~~  
 33 division. They shall include at least the following information:

34 (a) Name and social security number.

35 (b) Permanent address if other than the facility.

36 (c) Marital status and sex.

37 (d) Birthplace and date of birth.

38 (e) Name, address and telephone number of responsible agent or agency.

39 (f) Personal physician or authorized provider.

40 (g) Admission date.

41 (h) Results of a physical or health status examination performed by a  
 42 licensed physician or authorized provider within six (6) months prior  
 43 to admission.

44 (i) A list of medications, treatments and diet prescribed for the res-  
 45 ident which is signed and dated by the physician or authorized provider  
 46 giving the order(s).

47 (j) Religious affiliation if resident chooses to so state.

1 (k) Interested relatives and friends other than those in paragraph (e)  
 2 of this subsection. Names, addresses and telephone numbers of family  
 3 members and/or significant others.

4 (l) Resident assessment.

5 (m) The results of any psychosocial evaluations or histories to ensure  
 6 all resident needs are being met.

7 (2) The resident's personal or religious preferences with respect to  
 8 medical treatment and medications shall be honored.

9 SECTION 53. That Section 39-3316, Idaho Code, be, and the same is hereby  
 10 amended to read as follows:

11 39-3316. RESIDENT RIGHTS. A residential care or assisted living fa-  
 12 cility must protect and promote the rights of each resident, including each  
 13 of the following rights:

14 (1) Resident records. Each facility must maintain and keep current a  
 15 record of the following information on each resident:

16 (a) A copy of the resident's current negotiated service agreement and  
 17 physician's order.

18 (b) Written acknowledgement that the resident has received copies of  
 19 the rights.

20 (c) A record of all personal property and funds which the resident has  
 21 entrusted to the facility, including copies of receipts for the prop-  
 22 erty.

23 (d) Information about any specific health problems of the resident  
 24 which may be useful in a medical emergency.

25 (e) The name, address and telephone number of an individual identified  
 26 by the resident who should be contacted in the event of an emergency or  
 27 death of the resident.

28 (f) Any other health-related, emergency, or pertinent information  
 29 which the resident requests the facility to keep on record.

30 (g) The current admission agreement between the resident and the facil-  
 31 ity.

32 (2) Privacy. Each resident must be assured the right to privacy with  
 33 regard to accommodations, medical and other treatment, written and tele-  
 34 phone communications, visits, and meetings of family and resident groups.

35 (3) Humane care and environment (dignity and respect).

36 (a) Each resident shall have the right to humane care and a humane envi-  
 37 ronment, including the following:

38 (i) The right to a diet which is consistent with any religious or  
 39 health-related restrictions.

40 (ii) The right to refuse a restricted diet.

41 (iii) The right to a safe and sanitary living environment.

42 (b) Each resident shall have the right to be treated with dignity and  
 43 respect, including:

44 (i) The right to be treated in a courteous manner by staff.

45 (ii) The right to receive a response from the facility to any re-  
 46 quest of the resident within a reasonable time.

47 (iii) The right to be communicated with, orally and/or in writing,  
 48 in a language they understand.

49 (4) Personal possessions. Each resident shall have the right to:

- 1 (a) Wear his own clothing.  
2 (b) Determine his own dress or hair style.  
3 (c) Retain and use his own personal property in his own living area so as  
4 to maintain individuality and personal dignity.  
5 (d) Be provided a separate storage area in his own living area and at  
6 least one (1) locked cabinet or drawer for keeping personal property.  
7 (5) Personal funds. Residents whose board and care is paid for by pub-  
8 lic assistance shall retain, for their personal use, the difference between  
9 their total income and the applicable board and care allowance established  
10 by ~~department~~ division rules.  
11 (a) A facility shall not require a resident to deposit his personal  
12 funds with the facility.  
13 (b) Once the facility accepts the written authorization of the resi-  
14 dent, it must hold, safeguard, and account for such personal funds under  
15 a system established and maintained by the facility in accordance with  
16 this paragraph.  
17 (6) Management of personal funds. Upon a facility's acceptance of  
18 written authorization of a resident, the facility must manage and account  
19 for the personal funds of the resident deposited with the facility as fol-  
20 lows:  
21 (a) The facility must deposit any amount of a resident's personal funds  
22 in excess of five (5) times the personal needs allowance in an interest-  
23 bearing account (or accounts) that is separate from any of the facil-  
24 ity's operating accounts and credit all interest earned on such sepa-  
25 rate account to such account. The facility must maintain any other per-  
26 sonal funds in a noninterest-bearing account or petty cash fund.  
27 (b) The facility must assure a full and complete separate accounting of  
28 each resident's personal funds, maintain a written record of all finan-  
29 cial transactions involving each resident's personal funds deposited  
30 with the facility, and afford the resident (or a legal representative of  
31 the resident) reasonable access to such record.  
32 (c) Upon the death of a resident with such an account, the facility must  
33 promptly convey the resident's personal funds (and a final accounting  
34 of such funds) to the individual administering the resident's estate.  
35 For clients of the ~~department~~ division, the remaining balance of funds  
36 shall be refunded to the ~~department~~ division.  
37 (7) Access and visitation rights. Each facility must permit:  
38 (a) Immediate access to any resident by any representative of the  
39 ~~department~~ division, by the state ombudsman for the elderly or his de-  
40 signees, or by the resident's individual physician.  
41 (b) Immediate access to a resident, subject to the resident's right to  
42 deny or withdraw consent at any time, by immediate family or other rela-  
43 tives.  
44 (c) Immediate access to a resident, subject to reasonable restrictions  
45 and the resident's right to deny or withdraw consent at any time, by oth-  
46 ers who are visiting with the consent of the resident.  
47 (d) Reasonable access to a resident by any entity or individual that  
48 provides health, social, legal, or other services to the resident, sub-  
49 ject to the resident's right to deny or withdraw consent at any time.

1 (8) Employment. Each resident shall have the right to refuse to per-  
2 form services for the facility except as contracted for by the resident and  
3 the administrator of the facility. If the resident is hired by the facility  
4 to perform services as an employee of the facility, the wage paid to the resi-  
5 dent shall be consistent with state and federal law.

6 (9) Confidentiality. Each resident shall have the right to confiden-  
7 tiality of personal and clinical records.

8 (10) Freedom from abuse, neglect, and restraints. Each resident shall  
9 have the right to be free from physical, mental or sexual abuse, neglect,  
10 corporal punishment, involuntary seclusion, and any physical or chemical  
11 restraints.

12 (11) Freedom of religion. Each resident shall have the right to prac-  
13 tice the religion of his choice or to abstain from religious practice. Res-  
14 idents shall also be free from the imposition of the religious practices of  
15 others.

16 (12) Control and receipt of health-related services. Each resident  
17 shall have the right to control his receipt of health-related services, in-  
18 cluding:

19 (a) The right to retain the services of his own personal physician, den-  
20 tist and other health care professionals.

21 (b) The right to select the pharmacy or pharmacist of their choice so  
22 long as it meets the statute and rules governing residential care or as-  
23 sisted living and the policies and procedures of the residential care or  
24 assisted living facility.

25 (c) The right to confidentiality and privacy concerning his medical or  
26 dental condition and treatment.

27 (d) The right to refuse medical services based on informed decision-  
28 making. Refusal of treatment does not relieve the facility of its obli-  
29 gations under this chapter.

30 (13) Grievances. Each resident shall have the right to voice grievances  
31 with respect to treatment or care that is (or fails to be) furnished, with-  
32 out discrimination or reprisal for voicing the grievances and the right to  
33 prompt efforts by the facility to resolve grievances the resident may have,  
34 including those with respect to the behavior of other residents.

35 (14) Participation in resident and family groups. Each resident shall  
36 have the right to organize and participate in resident groups in the facility  
37 and the right of the resident's family to meet in the facility with the fami-  
38 lies of other residents in the facility.

39 (15) Participation in other activities. Each resident shall have the  
40 right to participate in social, religious, and community activities that do  
41 not interfere with the rights of other residents in the facility.

42 (16) Examination of survey results. Each resident shall have the right  
43 to examine, upon reasonable request, the results of the most recent survey of  
44 the facility conducted by the ~~department~~ division with respect to the facil-  
45 ity and any plan of correction in effect with respect to the facility.

46 (17) Access by advocates and representatives. A residential care or as-  
47 sisted living facility shall permit advocates and representatives of commu-  
48 nity legal services programs, whose purposes include rendering assistance  
49 without charge to residents, to have access to the facility at reasonable  
50 times in order to:

1 (a) Visit, talk with, and make personal, social and legal services  
2 available to all residents.

3 (b) Inform residents of their rights and entitlements, and their cor-  
4 responding obligations, under state, federal and local laws by distri-  
5 bution of educational materials and discussion in groups and with indi-  
6 viduals.

7 (c) Assist residents in asserting their legal rights regarding claims  
8 for public assistance, medical assistance and social security bene-  
9 fits, and in all other matters in which residents are aggrieved, which  
10 may be provided individually, or in a group basis, and may include orga-  
11 nizational activity, counseling and litigation.

12 (d) Engage in all other methods of assisting, advising and representing  
13 residents so as to extend to them the full enjoyment of their rights.

14 (e) Communicate privately and without restrictions with any resident  
15 who consents to the communication.

16 (f) Observe all common areas of the facility.

17 (18) Access by protection and advocacy system. A residential care or  
18 assisted living facility shall permit advocates and representatives of  
19 the protection and advocacy system designated by the governor pursuant  
20 to 42 U.S.C. ~~section~~ 15043 and 42 U.S.C. ~~section~~ 10801 et seq. access to  
21 residents, facilities and records in accordance with applicable federal  
22 statutes and regulations.

23 (19) Access by the long-term care ombudsman. A residential care or  
24 assisted living facility shall permit advocates and representatives of the  
25 long-term care ombudsman program pursuant to 42 U.S.C. ~~section~~ 3058, section  
26 67-5009, Idaho Code, and IDAPA 15.01.03, rules of the ~~office~~ commission on  
27 aging, access to residents, facilities and records in accordance with appli-  
28 cable federal and state law, rules and regulations.

29 SECTION 54. That Section 39-3321, Idaho Code, be, and the same is hereby  
30 amended to read as follows:

31 39-3321. QUALIFICATIONS AND REQUIREMENTS OF ADMINISTRATOR. Each res-  
32 idential care or assisted living facility must employ at least one (1) admin-  
33 istrator licensed by the ~~bureau of occupational licensing division~~, which is  
34 responsible for licensing residential care facility administrators for the  
35 state of Idaho. Multiple facilities under one (1) administrator may be al-  
36 lowed by the ~~department~~ division based on an approved plan of operation.

37 SECTION 55. That Section 39-3326, Idaho Code, be, and the same is hereby  
38 amended to read as follows:

39 39-3326. MEDICATIONS. The medication policy governed by the policy  
40 and procedure of the facility shall include a policy permitting, under the  
41 conditions specified, a licensed nurse to fill individual dose systems  
42 such as blister pack, mediset, or other system approved by the ~~department~~  
43 division. The policy shall provide for appropriate records to maintain se-  
44 curity of medications received from a pharmacist in accordance with pharmacy  
45 standards. The licensed nurse shall appropriately label the medication  
46 with name, dosage, amount and time to be taken, and special instructions if  
47 appropriate.

1 SECTION 56. That Section 39-3330, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 39-3330. COMMUNITY CARE ADVISORY COUNCIL. The ~~department shall~~  
4 administrator may establish a state level community care advisory council  
5 consisting of twenty (20) members appointed by the organizations and/or  
6 agencies represented on the council administrator. The chairman of the  
7 council shall be elected from the membership. ~~The members of the council~~  
8 ~~shall be determined by the bylaws of the council.~~

9 SECTION 57. That Section 39-3331, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11 39-3331. POWERS AND DUTIES OF THE ADVISORY COUNCIL. The ~~residential~~  
12 ~~care or assisted living~~ community care advisory council, if established,  
13 shall have the following powers and duties:

14 (1) To make policy recommendations regarding the coordination of li-  
15 censing and enforcement standards for and provision of services to residents  
16 in certified family homes, residential care facilities, or assisted living  
17 facilities and the provision of services to residents of residential care or  
18 assisted living facilities.

19 (2) To advise the agency division during development and revision of  
20 rules.

21 (3) To review and comment upon any proposed rules pertaining to resi-  
22 dential care or assisted living.

23 (4) To submit ~~an annual~~ a report to the legislature stating opinions and  
24 recommendations ~~which that~~ would further the state's capability in address-  
25 ing certified family home, residential care facility, or assisted living fa-  
26 cility issues.

27 SECTION 58. That Section 39-3332, Idaho Code, be, and the same is hereby  
28 amended to read as follows:

29 39-3332. MEETINGS. The ~~residential care or assisted living~~ community  
30 care advisory council shall meet as necessary but not less than four (4)  
31 times a year determined by the administrator. Meetings of the council, if  
32 established, shall be open to the public held in compliance with chapter 2,  
33 title 74, Idaho Code. The ~~department~~ division shall provide:

34 (1) Staff necessary to assist the council in performing its duties-;

35 (2) Space for meetings of the council-; and

36 (3) Accommodations for alternative meeting formats.

37 SECTION 59. That Section 39-3333, Idaho Code, be, and the same is hereby  
38 amended to read as follows:

39 39-3333. REIMBURSEMENT OF EXPENSES. Members of the ~~residential care~~  
40 ~~and assisted living~~ community care advisory council shall be reimbursed by  
41 the department division for their actual expenses incurred in the perfor-  
42 mance of their duties, not to exceed the limits set forth in the state travel  
43 guidelines.

1 SECTION 60. That Section 39-3340, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 39-3340. LICENSING. (1) Any person, firm, partnership, association,  
4 governmental unit, or corporation within the state proposing to operate, es-  
5 tablish, manage, conduct, or maintain a residential care or assisted living  
6 facility in the state shall have a license issued by the ~~licensing agency of~~  
7 ~~the department~~ division. A license is not transferable. The owner of the li-  
8 cense has ultimate responsibility for the operation of the facility.

9 (2) Each residential care or assisted living facility in the state re-  
10 quires an administrator, properly licensed by the ~~bureau of occupational li-~~  
11 ~~icensing~~ division, who is responsible for the day-to-day operation of the fa-  
12 cility.

13 (3) A license is not transferable from one (1) individual to another,  
14 from one (1) business entity to another, or from one (1) location to another.  
15 When a change of operator, ownership or location occurs, the facility shall  
16 be relicensed, and the operator shall follow the application procedures and  
17 obtain a license before commencing operation as a facility. When there is  
18 a significant change in an owner's share of the facility that does not al-  
19 ter the overall ownership or operation of the business, that change shall be  
20 communicated to the ~~licensing agency~~ division within sixty (60) days of the  
21 effective date of the change. When the owner contracts the operation to a fa-  
22 cility management company, other than for temporary management, it shall be  
23 treated as a change of operator.

24 SECTION 61. That Section 39-3345, Idaho Code, be, and the same is hereby  
25 amended to read as follows:

26 39-3345. DENIAL OR REVOCATION OF A LICENSE. The ~~licensing agency~~  
27 division may deny the issuance of a license or revoke any license when  
28 persuaded by a preponderance of evidence that such conditions exist as to  
29 endanger the health or safety of residents, or when the facility is not in  
30 substantial compliance with the provisions of this chapter or the rules pro-  
31 mulgated pursuant to this chapter.

32 SECTION 62. That Section 39-3349, Idaho Code, be, and the same is hereby  
33 amended to read as follows:

34 39-3349. RESPONSIBILITY FOR INSPECTIONS AND TECHNICAL ASSIS-  
35 TANCE. The ~~licensing agency~~ division shall inspect and provide technical  
36 assistance to residential care or assisted living facilities. ~~The depart-~~  
37 ~~ment~~ and may provide consulting services upon request to any residential  
38 care or assisted living facility to assist in the identification or correc-  
39 tion of deficiencies and in the upgrading of the quality of care provided by  
40 the facility.

41 SECTION 63. That Section 39-3351, Idaho Code, be, and the same is hereby  
42 amended to read as follows:

43 39-3351. EXEMPTIONS. The provisions of this chapter do not apply to  
44 any of the following:

- 1 (1) Any health facility as defined by chapter 13, title 39, Idaho Code.  
 2 (2) Any house, institution, hotel, congregate housing project, retire-  
 3 ment home or other similar place that is limited to providing one (1) or more  
 4 of the following: housing, meals, transportation, housekeeping, or recre-  
 5 ational and social activities; or that has residents accessing supportive  
 6 services from an entity approved to provide such services in Idaho and hold-  
 7 ing no legal ownership interest in the entity operating the facility.  
 8 (3) Any arrangement for the receiving and care of persons by a relative.  
 9 (4) Any similar facility determined by the ~~director~~ division adminis-  
 10 trator.

11 SECTION 64. That Section 39-3352, Idaho Code, be, and the same is hereby  
 12 amended to read as follows:

13 39-3352. UNLICENSED RESIDENTIAL CARE OR ASSISTED LIVING FACILI-  
 14 TIES. (1) No unlicensed residential care or assisted living facility shall  
 15 operate in this state.

16 (2) A facility shall be deemed to be an "unlicensed residential care or  
 17 assisted living facility" and "maintained and operated to provide services"  
 18 if it is unlicensed and not exempt from licensure, and any one (1) of the fol-  
 19 lowing conditions is satisfied:

20 (a) The facility is, or is held out as or represented as, providing  
 21 care, supervision and services.

22 (b) The facility accepts or retains residents who demonstrate the need  
 23 for care, supervision, and services, as defined in this chapter or the  
 24 rules adopted pursuant to this chapter.

25 (3) Upon discovery of an unlicensed residential care or assisted liv-  
 26 ing facility, the ~~department~~ division shall refer residents to the appropri-  
 27 ate placement or adult protective services agency if either of the following  
 28 conditions exist:

29 (a) There is an immediate threat to the resident's health and safety.

30 (b) The facility will not cooperate with the ~~licensing agency~~ division  
 31 to apply for a license, meet licensing standards, and obtain a valid li-  
 32 cense.

33 (4) A person found to be operating a residential care or assisted living  
 34 facility without a license shall be guilty of a misdemeanor punishable by im-  
 35 prisonment in a county jail not to exceed six (6) months, or by a fine not to  
 36 exceed five thousand dollars (\$5,000).

37 (5) In the event the county attorney in the county where the alleged vi-  
 38 olation occurred fails or refuses to act within thirty (30) days of notifica-  
 39 tion of the violation, the attorney general is authorized to prosecute vio-  
 40 lations under the provisions of this section.

41 SECTION 65. That Section 39-3354, Idaho Code, be, and the same is hereby  
 42 amended to read as follows:

43 39-3354. WAIVER OR VARIANCE. The ~~board~~ division administrator shall  
 44 provide by rule a procedure whereby a temporary variance or a permanent  
 45 waiver of a specific standard may be granted in the event that good cause is  
 46 shown for such a variance or waiver and providing that a variance or waiver  
 47 of a standard does not endanger the health and safety of any resident. The

1 decision to grant a variance or waiver shall not be considered as precedent  
2 or be given any force or effect in any other proceeding.

3 SECTION 66. That Section 39-3354A, Idaho Code, be, and the same is  
4 hereby amended to read as follows:

5 39-3354A. SPECIAL WAIVER PERMITTED. The ~~department~~ division may grant  
6 a special waiver of the requirement for licensure as a residential care or  
7 assisted living facility when it is deemed in the best interests of individu-  
8 als and with due consideration of the following criteria:

9 (1) The individuals are residents of a facility operated by a nonprofit  
10 health care and/or housing organization established as such in the state of  
11 Idaho and satisfying the requirements of U.S. Internal Revenue Code section  
12 501(c) as a nonprofit;

13 (2) The support services required by the individuals are furnished by  
14 an entity approved to provide such services in the state of Idaho in good  
15 standing as demonstrated by routine inspections required for the type of en-  
16 tity providing services;

17 (3) Facilities seeking such waivers and providing meal service shall  
18 be inspected and licensed as a food service establishment by the district  
19 health department unless the meal service is provided by a kitchen already  
20 part of a facility licensed by the ~~department~~ division;

21 (4) The costs of obtaining the needed services from another source are  
22 significantly greater and/or would pose a significant hardship on these in-  
23 dividuals.

24 Any waiver granted under this section shall be reviewed annually and is  
25 subject to inspection by the ~~department~~ division to ensure safety and sani-  
26 tation.

27 SECTION 67. That Section 39-3355, Idaho Code, be, and the same is hereby  
28 amended to read as follows:

29 39-3355. INSPECTIONS. (1) The ~~licensing agency~~ division shall cause  
30 to be made such inspections and investigations to determine compliance with  
31 this chapter and applicable rules.

32 (2) Inspections for such purposes will be made unannounced and without  
33 prior notice at the discretion of the ~~department~~ division and at intervals  
34 determined by the ~~licensing agency~~ division.

35 (3) An inspector shall have full access and authority to examine, among  
36 other things, quality of care and service delivery, a facility's records,  
37 resident accounts, physical premises, including buildings, grounds and  
38 equipment, and any other areas necessary to determine compliance with this  
39 chapter and applicable rules.

40 (4) An inspector shall have authority to interview the licensee, admin-  
41 istrator, staff and residents. Interviews with residents shall be confiden-  
42 tial and conducted privately unless otherwise specified by the resident.

43 (5) The ~~licensing agency~~ division shall notify the facility, in writ-  
44 ing, of all deficiencies and shall approve a reasonable length of time for  
45 compliance by the facility.

1 (6) Current lists of deficiencies, including plans of correction,  
2 shall be available to the public upon request in the individual facilities or  
3 by written request to the department division.

4 (7) The department division shall accept an accreditation survey from  
5 an accreditation commission for a residential care or assisted living facil-  
6 ity instead of regular compliance inspections conducted under the authority  
7 of this section if all of the following conditions are met:

8 (a) The accreditation commission's standards meet or exceed the state  
9 requirements for licensure for residential care or assisted living fa-  
10 cilities;

11 (b) The facility submits to the department division a copy of its re-  
12 quired accreditation reports to the accreditation commission in addi-  
13 tion to the application and any other information required for renewal  
14 of a license;

15 (c) The inspection results are available for public inspection to the  
16 same extent that the results of an investigation or inspection con-  
17 ducted under this section are available for public inspection;

18 (d) The accreditation commission complies with the health insurance  
19 portability and accountability act and takes reasonable precautions  
20 to protect the confidentiality of personally identifiable information  
21 concerning the residents of the facility; and

22 (e) If the facility's accreditation report is not valid for the entire  
23 licensure period, the department division may conduct a compliance in-  
24 spection of the facility during the time period for which the department  
25 division does not have a valid accreditation report.

26 (8) The department division shall not conduct an onsite compliance in-  
27 spection of the residential care or assisted living facility during the time  
28 the accreditation report is valid except for complaint surveys, reportable  
29 incidents, or in cases of emergencies. Accreditation does not limit the  
30 department division in performing any power or duty under this chapter or  
31 inspection authorized under this section, including taking appropriate  
32 action relating to a residential care or assisted living facility, such as  
33 suspending or revoking a license, investigating an allegation of abuse, ex-  
34 ploitation, or neglect or another complaint, or assessing an administrative  
35 penalty.

36 SECTION 68. That Section 39-3357, Idaho Code, be, and the same is hereby  
37 amended to read as follows:

38 39-3357. ENFORCEMENT PROCESS. (1) If the licensing agency division  
39 finds, on the basis of inspections as defined in this chapter or otherwise,  
40 that a residential or assisted living facility no longer meets a requirement  
41 of this chapter, and further finds that the facility's deficiencies:

42 (a) Immediately jeopardize the health or safety of its residents, the  
43 department division shall take immediate action to remove the jeopardy  
44 and correct the deficiencies through the remedy specified in section  
45 39-3358(1)(c), Idaho Code, or prohibit the facility from keeping or  
46 admitting residents and may provide, in addition, for one (1) or more of  
47 the other remedies described in section 39-3358, Idaho Code.

1 (b) Do not immediately jeopardize the health or safety of its resi-  
 2 dents, the department division shall provide for one (1) or more of the  
 3 remedies described in section 39-3358, Idaho Code.

4 (2) Nothing in this section shall be construed as restricting the  
 5 remedies available to the department division to remedy a facility's  
 6 deficiencies. If the department division finds that a facility meets the re-  
 7 quirements of this chapter, but, as of a previous period, intentionally did  
 8 not meet such requirements, the department division may provide for a civil  
 9 money penalty under section 39-3358 (1) (b), Idaho Code, for the days in which  
 10 it finds that the facility was not in compliance with such requirements.

11 (3) Residential care or assisted living facilities may be cited only  
 12 for a violation of a requirement that is specified in an applicable law or  
 13 in a rule promulgated in compliance with an applicable law. Facilities may  
 14 not be cited for an act that is not expressly proscribed by an applicable  
 15 law or rule or for an omission when an applicable law or rule does not ex-  
 16 pressly require the conduct omitted. If the department division requires a  
 17 specific corrective action in relation to a citation, that requirement must  
 18 be in writing and reference the corresponding rule.

19 SECTION 69. That Section 39-3358, Idaho Code, be, and the same is hereby  
 20 amended to read as follows:

21 39-3358. SPECIFIED REMEDIES. (1) The department division shall estab-  
 22 lish at least the following remedies:

23 (a) Prohibit the facility from admitting residents or prohibit a facil-  
 24 ity from keeping or admitting residents with a specific diagnosis.

25 (b) A civil money penalty assessed and collected, with interest, for  
 26 each day the facility is or was out of compliance with a requirement of  
 27 this chapter. Funds collected by the department division as a result of  
 28 imposition of such a penalty shall be applied to the protection of the  
 29 health or property of residents of residential or assisted living fa-  
 30 cilities that the department division finds deficient, including pay-  
 31 ment for the costs of relocation of residents to other facilities, main-  
 32 tenance of operation of a facility pending correction of deficiencies  
 33 or closure, and reimbursement of residents for personal funds lost.

34 (c) The appointment of temporary management to oversee the operation of  
 35 the facility and to assure the health and safety of the facility's resi-  
 36 dents, where there is a need for temporary management while:

37 (i) There is an orderly closure of the facility.

38 (ii) Improvements are made in order to bring the facility into  
 39 compliance with all the requirements of this chapter.

40 (iii) The temporary management under this clause shall not be ter-  
 41 minated until the department division has determined that the fa-  
 42 cility has the management capability to ensure continued compli-  
 43 ance with all the requirements of this chapter.

44 (d) The authority, in the case of an emergency, to summarily suspend the  
 45 license, to close the facility, and/or to transfer residents in that fa-  
 46 cility to other facilities.

47 (2) The department division shall also specify criteria as to when and  
 48 how each of such remedies is to be applied, the amounts of any fines, and the  
 49 severity of each of these remedies, to be used in the imposition of such reme-

1 dies. Such criteria shall be designed so as to minimize the time between the  
2 identification of violations and final imposition of the remedies and shall  
3 provide for the imposition of incrementally more severe fines for repeated  
4 or uncorrected deficiencies.

5 SECTION 70. That Section 39-3501, Idaho Code, be, and the same is hereby  
6 amended to read as follows:

7 39-3501. LEGISLATIVE INTENT AND DECLARATION. The purpose of a certi-  
8 fied family home in Idaho is to provide a homelike alternative designed to  
9 allow individuals to remain in a more normal family-styled living environ-  
10 ment, usually within their own community. Certified family homes provide a  
11 home to individuals who are elderly, individuals with a mental illness, de-  
12 velopmental disabilities, physical disabilities or to those unable to live  
13 alone, and whose mental, emotional and physical condition can be met by the  
14 care provider to delay the need for more expensive congregate care or other  
15 institutional care. The home must obtain a waiver under section 39-1301A,  
16 Idaho Code, to care for two (2) persons requiring care described in section  
17 39-1301~~(b)~~, Idaho Code.

18 It is the intent of the legislature that certified family homes be  
19 available to meet the needs of those residing in these homes while providing  
20 a more homelike environment focused on integrated community living rather  
21 than other more restrictive environments and by recognizing the capabili-  
22 ties of individuals to direct their own care.

23 The certified family home shall be operated by a provider who has demon-  
24 strated the knowledge and experience required to provide safe and appropri-  
25 ate services to each resident of the certified family home. The provider  
26 shall protect each resident's rights and provide appropriate services to  
27 meet each resident's needs. For those residents whose care is not paid with  
28 public funds, the certified family home shall conduct an objective, indi-  
29 vidualized assessment to determine resident needs, develop a comprehensive  
30 negotiated plan of service to meet those needs, deliver appropriate services  
31 to meet resident needs and ensure resident rights are honored.

32 The ~~department~~ division of occupational and professional licenses is  
33 responsible for monitoring and enforcing the provisions of this chapter.  
34 This responsibility includes, but is not limited to: monitoring the con-  
35 dition of the certified family home, ensuring that each resident has an  
36 individualized written plan of care that includes activities of daily living  
37 and support services, and managing enforcement procedures when violations  
38 occur.

39 SECTION 71. That Section 39-3502, Idaho Code, be, and the same is hereby  
40 amended to read as follows:

41 39-3502. DEFINITIONS. As used in this chapter:

42 (1) "Abuse" means a nonaccidental act of sexual, physical or mental  
43 mistreatment or injury of a resident through the action or inaction of an-  
44 other individual.

45 (2) "Activities of daily living" means the performance of basic self-  
46 care activities in meeting an individual's needs to sustain him in a daily  
47 living environment.

1 (3) "Administrator" means the administrator of the division of occupa-  
 2 tional and professional licenses.

3 (4) "Adult" means a person who has attained the age of eighteen (18)  
 4 years.

5 (45) "Advocate" means an authorized or designated representative of a  
 6 program or organization operating under federal or state mandate to repre-  
 7 sent the interests of a population group served by the certified family home.

8 (56) "Assessment" means the conclusion reached using uniform crite-  
 9 ria which identifies resident strengths, weaknesses, risks and needs, to  
 10 include functional, medical and behavioral. The assessment criteria shall  
 11 be developed by the ~~department~~ division of occupational and professional  
 12 licenses and the community care advisory council, if such council is estab-  
 13 lished pursuant to chapter 33, title 39, Idaho Code.

14 ~~(6) "Board" means the board of health and welfare.~~

15 (7) "Care provider" means the adult member of the home family responsi-  
 16 ble for maintaining the certified family home. The care provider and the leg-  
 17 al owner may not necessarily be the same person. The care provider must live  
 18 in the home.

19 (8) "Certified family home" means a family-styled living environment  
 20 in which two (2) or fewer adults live who are not able to reside in their own  
 21 home and who require care, help in daily living, protection and security, su-  
 22 perVISION, personal assistance and encouragement toward independence.

23 (9) "Certifying agent" means a person acting under the authority of the  
 24 ~~department~~ division of occupational and professional licenses to partici-  
 25 part in the certification, inspection, and regulation of a family home.

26 (10) "Chemical restraint" means any drug that is used for discipline or  
 27 convenience and not required to treat medical symptoms.

28 (11) "Client" means any person who receives financial aid and/or ser-  
 29 vices from an organized program of the ~~department~~ division of occupational  
 30 and professional licenses.

31 (12) "Core issues" means abuse, neglect, exploitation, inadequate  
 32 care, inoperable fire detection or extinguishing systems with no fire watch  
 33 in place pending the correction of the system, and situations in which ad-  
 34 vocates, representatives, and ~~department~~ division certification staff are  
 35 denied access to records, residents or the certified family home.

36 (13) ~~"Department" means the Idaho department of health and welfare.~~  
 37 "Division" means the division of occupational and professional licenses.

38 (14) ~~"Director" means the director of the Idaho department of health and~~  
 39 ~~welfare.~~

40 ~~(15) "Exploitation" means the misuse of a vulnerable adult's funds,~~  
 41 ~~property or resources by another person for profit or advantage.~~

42 (165) "Governmental unit" means the state, any county, any city, other  
 43 political subdivision, or any department, division, board or other agency  
 44 thereof.

45 (176) "Home family" means all individuals related by blood, marriage or  
 46 adoption, other than residents residing in the certified family home.

47 (187) "Inadequate care" occurs when a certified family home fails to  
 48 provide the services required to meet the terms of the negotiated plan of  
 49 service or provide for room, board, activities of daily living, supervision,  
 50 first aid, assistance and monitoring of medications, emergency interven-

1 tion, coordination of outside services or a safe living environment; or  
 2 engages in violations of residents' rights or takes residents who have been  
 3 admitted in violation of the provisions of section 39-3507, Idaho Code.

4 (198) "Medical foster home" means a private home approved by the depart-  
 5 ment of veterans affairs in which a caregiver provides long-term primary  
 6 health care to veteran residents with serious chronic disease and disabil-  
 7 ity, as described in 38 CFR part 17.

8 (2019) "Neglect" means failure to provide food, clothing, shelter, or  
 9 medical care necessary to sustain life and health of a resident.

10 (210) "Negotiated service agreement" means the agreement reached by the  
 11 resident or their representative, if applicable, and the facility, based  
 12 on the assessment, physician's orders if any, admission records if any, and  
 13 desires of the resident and which outlines services to be provided and the  
 14 obligations of the certified family home and the resident.

15 (221) "Personal assistance" means the provision by the certified family  
 16 home of one (1) or more of the following services:

17 (a) Assisting the resident with activities of daily living.

18 (b) Arranging for supportive services.

19 (c) Being aware of the resident's general whereabouts.

20 (d) Monitoring the activities of the resident while on the premises of  
 21 the facility to ensure the resident's health, safety and well-being.

22 (232) "Political subdivision" means a city or county.

23 (243) "Representative of the ~~department~~ division" means an employee of  
 24 the ~~department~~ division.

25 (254) "Resident" means an adult who lives in a certified family home and  
 26 who requires personal assistance or supervision.

27 (265) "Room and board" means lodging and meals.

28 (276) "Substantial compliance" means a certified family home has no  
 29 core issue deficiencies.

30 (287) "Substitute caregiver" means an adult designated by the certified  
 31 family home provider to provide care and services in a certified family home  
 32 in the temporary absence of the regular care provider.

33 (298) "Supervision" means administrative activity which provides the  
 34 following: protection, guidance, knowledge of the resident's whereabouts  
 35 and monitoring activities. The care provider is responsible for providing  
 36 appropriate supervision based on each resident's negotiated service agree-  
 37 ment.

38 (3029) "Supportive services" means the specific services that are pro-  
 39 vided to the resident in the community and that are required by the negoti-  
 40 ated service agreement or reasonably requested by the resident.

41 SECTION 72. That Section 39-3504, Idaho Code, be, and the same is hereby  
 42 amended to read as follows:

43 39-3504. PHYSICAL AND ENVIRONMENTAL STANDARDS. Standards shall be de-  
 44 veloped through the regulatory process by the ~~department~~ division to assure  
 45 a safe, sanitary, and comfortable environment for residents of certified  
 46 family homes.

47 SECTION 73. That Section 39-3505, Idaho Code, be, and the same is hereby  
 48 amended to read as follows:

1           39-3505. RULES. The ~~board~~ administrator shall have the power and ~~it~~  
2 ~~shall be its~~ duty to promulgate appropriate rules necessary to implement and  
3 enforce the standards for certified family homes pursuant to this act in-  
4 cluding, but not limited to, the following:

5           (1) A home shall be certified for no more than two (2) adults, how-  
6 ever, upon an application by the owner and upon a finding by the ~~department~~  
7 division that residents can be cared for safely and appropriately based on  
8 the residents' specific needs, the ~~department~~ division may authorize not  
9 more than four (4) adults to be placed in a certified family home which is  
10 owner-occupied and which applies to the ~~department~~ division for the autho-  
11 rization. Certification as a four (4) resident certified family home shall  
12 not be transferable to another person or entity. Four (4) resident certified  
13 family homes shall be subject to all statutes and rules governing certified  
14 family homes but shall not be subject to the residential care facility admin-  
15 istrator licensing requirements of chapter 42, title 54, Idaho Code, or sec-  
16 tion 39-3340, Idaho Code, licensing of residential care or assisted living  
17 facilities for individuals with mental illness, developmental disabilities  
18 or physical disabilities. ~~This provision implementing four (4) resident~~  
19 ~~certified family homes shall be effective on July 1, 2001.~~ The ~~department~~  
20 division shall promulgate rules for four (4) resident certified family homes  
21 through the negotiated rulemaking process. Nothing in this subsection shall  
22 be construed to authorize increased group size for providers of any form of  
23 care other than certified family homes.

24           (2) A care provider is the adult who has applied to be the care provider  
25 and who is responsible for client care and following the laws and rules of the  
26 certified family home program.

27           (3) A home cannot be approved as certified for family home care if it  
28 also provides room and board for other persons. A waiver may be granted by  
29 the ~~department~~ division where a married couple wishes to live together in the  
30 same certified family home and one (1) member of the couple does not require  
31 certified family home care.

32           (4) A home cannot be approved as a certified family home and for child  
33 foster care at the same time, unless a waiver is granted by the ~~department~~  
34 division.

35           (5) The care provider must have sufficient resources to maintain the  
36 home and the services offered.

37           (6) Information obtained by the care provider shall be held confiden-  
38 tial except to representatives of the ~~department~~ division to provide ser-  
39 vices or determine compliance with this chapter or upon consent of the indi-  
40 vidual or his legal guardian.

41           (7) Recordkeeping and reporting requirements as may be deemed neces-  
42 sary.

43           (8) Requirements to assure the safety and adequate care of residents to  
44 include the recording of incidents and accidents.

45           (9) Management of medications.

46           (10) Inspections. The certifying agency may inspect and investigate  
47 certified family homes as necessary to determine compliance with this chap-  
48 ter and the ~~department's~~ division's rules.

49           (11) Revocation of certification or other enforcement actions.

1 SECTION 74. That Section 39-3508, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 39-3508. ASSESSMENT. The ~~department~~ division shall employ uniform as-  
4 sessment criteria to assess functional and cognitive disability. The con-  
5 clusions shall be deemed the assessment and shall be used to provide appro-  
6 priate placement and funding for service needs.

7 SECTION 75. That Section [39-3511](#), Idaho Code, be, and the same is hereby  
8 repealed.

9 SECTION 76. That Section 39-3513, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11 39-3513. TRAINING. The ~~department~~ division shall assure that care  
12 providers receive, at a minimum, training which shall include the rights of  
13 the resident, and a basic understanding of the psychosocial and physical  
14 needs of residents to be served. The ~~department~~ division will require annual  
15 continuing education requirements for care providers as defined by rules  
16 promulgated pursuant to this chapter.

17 SECTION 77. That Section 39-3516, Idaho Code, be, and the same is hereby  
18 amended to read as follows:

19 39-3516. RESIDENT RIGHTS. A certified family home must protect and  
20 promote the rights of each resident, including each of the following rights:

21 (1) Resident records. Each certified family home must maintain and  
22 keep current a record of the following information on each resident:

23 (a) A copy of the resident's current negotiated plan of service and  
24 physician's history and physical that includes current medications and  
25 special treatments.

26 (b) Written acknowledgement that the resident has received copies of  
27 the rights.

28 (c) A record of all personal property and funds which the resident has  
29 entrusted to the certified family home, including copies of receipts  
30 for the property.

31 (d) Information about any specific health problems of the resident  
32 which may be useful in a medical emergency.

33 (e) The name, address and telephone number of an individual identified  
34 by the resident who should be contacted in the event of an emergency or  
35 death of the resident.

36 (f) Any other health-related, emergency or pertinent information which  
37 the resident requests the certified family home to keep on record.

38 (g) The current admission agreement between the resident and the certi-  
39 fied family home.

40 (2) Privacy. Each resident must be assured the right to privacy with  
41 regard to accommodations, medical and other treatment, written and tele-  
42 phone communications, visits, and meetings of family and resident groups.

43 (3) Humane care and environment (dignity and respect).

44 (a) Each resident shall have the right to humane care and a humane envi-  
45 ronment, including the following:

- 1 (i) The right to a diet which is consistent with any religious or  
2 health-related restrictions.
- 3 (ii) The right to refuse a restricted diet.
- 4 (iii) The right to a safe and sanitary living environment.
- 5 (b) Each resident shall have the right to be treated with dignity and  
6 respect, including:
- 7 (i) The right to be treated in a courteous manner by staff.
- 8 (ii) The right to receive a response from the certified family  
9 home to any request of the resident within a reasonable time.
- 10 (4) Personal possessions. Each resident shall have the right to:
- 11 (a) Wear his own clothing.
- 12 (b) Determine his own dress or hair style.
- 13 (c) Retain and use his own personal property in his own living area so as  
14 to maintain individuality and personal dignity.
- 15 (d) Be provided a separate storage area in his own living area and at  
16 least one (1) lockable cabinet or drawer for keeping personal property  
17 if requested by the resident.
- 18 (5) Personal funds. Residents whose board and care is paid for by pub-  
19 lic assistance shall retain, for their personal use, the difference between  
20 their total income and the applicable board and care allowance established  
21 by ~~department~~ division rules.
- 22 (a) A certified family home shall not require a resident to deposit his  
23 personal funds with the certified family home.
- 24 (b) Once the certified family home accepts the written authorization  
25 of the resident, the certified family home must hold, safeguard and ac-  
26 count for such personal funds under a system established and maintained  
27 by the certified family home in accordance with this ~~sub~~paragraph.
- 28 (6) Management of personal funds. Upon a certified family home's ac-  
29 ceptance of written authorization of a resident, the certified family home  
30 must manage and account for the personal funds of the resident deposited with  
31 the certified family home. Upon the death of a resident with such an ac-  
32 count, the certified family home must promptly convey the resident's per-  
33 sonal funds, and a final accounting of such funds, to the individual admin-  
34 istering the resident's estate. For clients of the ~~department~~ division, the  
35 remaining balance of funds shall be refunded to the ~~department~~ division.
- 36 (7) Access and visitation rights. Each certified family home must per-  
37 mit:
- 38 (a) Immediate access to any resident by any representative of the  
39 ~~department~~ division, by the state ombudsman for the elderly or his de-  
40 signee, or by the resident's individual physician.
- 41 (b) Immediate access to a resident, subject to the resident's right to  
42 deny or withdraw consent at any time, by immediate family or other rela-  
43 tives.
- 44 (c) Immediate access to a resident, subject to reasonable restrictions  
45 and the resident's right to deny or withdraw consent at any time, by oth-  
46 ers who are visiting with the consent of the resident.
- 47 (d) Reasonable access to a resident by any entity or individual that  
48 provides health, social, legal or other services to the resident, sub-  
49 ject to the resident's right to deny or withdraw consent at any time.

1 (e) Access by protection and advocacy system. The certified family  
 2 home shall permit advocates and representatives of the protection and  
 3 advocacy system designated by the governor pursuant to 42 U.S.C. 15043  
 4 and 42 U.S.C. 10801 et seq. access to residents, certified family homes  
 5 and records in accordance with applicable federal law and regulations.

6 (8) Employment. Each resident shall have the right to refuse to perform  
 7 services for the certified family home except as contracted for by the resi-  
 8 dent and the care provider of the home. If the resident is hired by the certi-  
 9 fied family home to perform services as an employee of the home, the wage paid  
 10 to the resident shall be consistent with state and federal law.

11 (9) Confidentiality. Each resident shall have the right to confiden-  
 12 tiality of personal and clinical records.

13 (10) Freedom from abuse, neglect and restraints. Each resident shall  
 14 have the right to be free from physical, mental or sexual abuse, neglect,  
 15 corporal punishment, involuntary seclusion, and any physical or chemical  
 16 restraints.

17 (11) Freedom of religion. Each resident shall have the right to prac-  
 18 tice the religion of his choice or to abstain from religious practice. Res-  
 19 idents shall also be free from the imposition of the religious practices of  
 20 others.

21 (12) Control and receipt of health-related services. Each resident  
 22 shall have the right to control his receipt of health-related services, in-  
 23 cluding:

24 (a) The right to retain the services of his own personal physician, den-  
 25 tist and other health care professionals.

26 (b) The right to select the pharmacy or pharmacist of his choice.

27 (c) The right to confidentiality and privacy concerning his medical or  
 28 dental condition and treatment.

29 (13) Grievances. Each resident shall have the right to voice grievances  
 30 with respect to treatment or care that is (or fails to be) furnished, with-  
 31 out discrimination or reprisal for voicing the grievances and the right to  
 32 prompt efforts by the certified family home to resolve grievances the resi-  
 33 dent may have, including those with respect to the behavior of other resi-  
 34 dents.

35 (14) Participation in other activities. Each resident shall have the  
 36 right to participate in social, religious and community activities that do  
 37 not interfere with the rights of other residents in the certified family  
 38 home.

39 (15) Examination of home inspection reports. Each resident shall have  
 40 the right to examine, upon reasonable request, the results of the most recent  
 41 home inspection of the certified family home conducted by the ~~department~~  
 42 division with respect to the certified family home and any plan of correction  
 43 in effect with respect to the certified family home.

44 SECTION 78. That Section 39-3520, Idaho Code, be, and the same is hereby  
 45 amended to read as follows:

46 39-3520. APPLICATION FOR CERTIFICATION. An application for certifi-  
 47 cation shall be made to ~~regional offices of the department~~ the division upon  
 48 forms provided by the ~~department~~ division and shall contain such information  
 49 as the ~~department~~ division reasonably requires, which will include a back-

1 ground check and fingerprinting through the ~~department~~ division. Following  
2 receipt of an application, the ~~department~~ division shall conduct a study,  
3 including a visit to the home, to determine the capability of the provider to  
4 provide care as a certified family home.

5 SECTION 79. That Section 39-3521, Idaho Code, be, and the same is hereby  
6 amended to read as follows:

7 39-3521. ISSUANCE AND RENEWAL OF CERTIFICATION. Each certificate  
8 shall be issued only for the home and provider named in the application and  
9 shall not be transferable or assignable. Each certified family home is  
10 required to renew its certification annually. The application for renewal  
11 shall be filed with the ~~regional office of the department~~ division within  
12 thirty (30) days prior to the date of expiration. The existing certificate,  
13 unless suspended or revoked, shall remain in force and effect until the  
14 ~~department~~ division has acted upon the application renewal when such appli-  
15 cation for renewal is timely filed.

16 SECTION 80. That Section 39-3522, Idaho Code, be, and the same is hereby  
17 amended to read as follows:

18 39-3522. PROVISIONAL CERTIFICATION. Upon initial investigation,  
19 should an applicant for a certificate be unable to meet a standard because of  
20 conditions that are unlikely to endure beyond six (6) months, the ~~department~~  
21 division may grant a provisional certificate pending the satisfactory  
22 correction of all deficiencies and provided that the deficiencies do not  
23 jeopardize the health and safety of residents. No more than one (1) provi-  
24 sional certificate shall be issued to the same certified family home in any  
25 twelve (12) month period.

26 SECTION 81. That Section 39-3523, Idaho Code, be, and the same is hereby  
27 amended to read as follows:

28 39-3523. DENIAL OR REVOCATION OF A CERTIFICATE. The ~~department~~  
29 division may deny the issuance of a certificate or revoke any certificate  
30 when persuaded by a preponderance of evidence that such conditions exist as  
31 to endanger the health or safety of any resident, or when the home is not in  
32 substantial compliance with the provisions of this chapter or rules promul-  
33 gated pursuant to this chapter.

34 SECTION 82. That Section 39-3524, Idaho Code, be, and the same is hereby  
35 amended to read as follows:

36 39-3524. PROCEDURE FOR DENIAL OR REVOCATION OF A CERTIFICATE. Immedi-  
37 ately upon the denial of any application for a certificate, or the revoca-  
38 tion of a certificate, the ~~department~~ division shall notify the applicant in  
39 writing. The proceedings shall be conducted in accordance with the Idaho ad-  
40 ministrative procedure act and ~~the department's~~ division rules.

41 SECTION 83. That Section 39-3525, Idaho Code, be, and the same is hereby  
42 amended to read as follows:

1           39-3525. EFFECT OF PREVIOUS REVOCATION OR DENIAL OF A CERTIFICATE. The  
2 ~~department~~ division is not required to review the application of an appli-  
3 cant who has had a certificate denied or revoked until five (5) years have  
4 elapsed from the date of certificate denial, revocation, or appeals.

5           SECTION 84. That Section 39-3526, Idaho Code, be, and the same is hereby  
6 amended to read as follows:

7           39-3526. RULES PROVIDED. Upon initial certification, certified fam-  
8 ily homes shall be provided a printed copy of all applicable statutes and  
9 rules by the ~~department~~ division, without charge.

10          SECTION 85. That Section 39-3527, Idaho Code, be, and the same is hereby  
11 amended to read as follows:

12          39-3527. RESPONSIBILITY FOR INSPECTIONS AND TECHNICAL ASSIS-  
13 TANCE. The certifying agency shall inspect and provide technical assistance  
14 to certified family homes. The ~~department~~ division may provide consulting  
15 services upon request to any certified family home to assist in the identifi-  
16 cation and correction of deficiencies and in the upgrading of the quality of  
17 care provided by the certified family home.

18          SECTION 86. That Section 39-3554, Idaho Code, be, and the same is hereby  
19 amended to read as follows:

20          39-3554. WAIVER OR VARIANCE. The ~~board~~ administrator shall provide,  
21 by rule, a procedure whereby a temporary variance or a permanent waiver of  
22 a specific standard may be granted in the event that good cause is shown for  
23 such a variance or waiver and providing that a variance or waiver of a stan-  
24 dard does not endanger the health and safety of any resident. The decision  
25 to grant a variance or waiver shall not be considered as precedent or be given  
26 any force of effect in any other proceeding.

27          SECTION 87. That Section 39-4602, Idaho Code, be, and the same is hereby  
28 amended to read as follows:

29          39-4602. PURPOSE. It is declared to be the policy of the legislature of  
30 the state of Idaho to authorize and mandate the department of health and wel-  
31 fare to develop and coordinate services for developmentally disabled per-  
32 sons through adult and child development programs and through contracts with  
33 rehabilitation facilities. The complexities of developmental disabilities  
34 require the services of many state departments as well as those of the com-  
35 munity. It is the intent of this chapter that the department of health and  
36 welfare will cooperate with recognized agencies, divisions, organizations,  
37 and departments in implementing this chapter. Services should be planned  
38 and provided as a part of a continuum. A pattern of facilities, services and  
39 eligibility should be established which is sufficiently complete to meet the  
40 needs of each developmentally disabled person regardless of age or degree of  
41 disability, with consideration of the family.

1 SECTION 88. That Section 39-4605, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 39-4605. DUTIES OF THE DEPARTMENT. The department shall provide ap-  
4 propriate services of habilitation and rehabilitation to the eligible popu-  
5 lation of developmentally disabled, and shall consult with the state council  
6 on developmental disabilities. The department shall be the primary agency  
7 responsible for the services set forth herein, and shall:

8 (1) Develop and prepare an annual plan for the initiation and mainte-  
9 nance of developmental disabilities services authorized in this chapter.  
10 Such services shall include, but not be limited to community comprehensive  
11 developmental disability services;

12 (2) Initiate and provide services which shall include, but not be lim-  
13 ited to, community comprehensive developmental disabilities services;

14 (3) In order to provide services, enter into agreements with any person  
15 or persons, corporation or association, approved by the department, for the  
16 contracting of all or a portion of the costs of the care, treatment, mainte-  
17 nance, support and training of developmentally disabled persons; and

18 (4) Provide technical assistance for state and local personnel working  
19 in the field of developmental disabilities under this chapter.

20 ~~Any person, corporation or association may make application to the de-~~  
21 ~~partment for approval and certification of the applicant's developmental~~  
22 ~~disabilities facility. The department may either grant or deny certifi-~~  
23 ~~cation or revoke certification previously granted after investigation of~~  
24 ~~the applicant's facilities, to ascertain whether or not such facilities~~  
25 ~~are adequate for the health, safety and the care, treatment, maintenance,~~  
26 ~~training and support of developmentally disabled persons, in accordance~~  
27 ~~with standards as set forth in rules and regulations promulgated by the board~~  
28 ~~of health and welfare and consistent with existing national accreditation~~  
29 ~~bodies.~~

30 SECTION 89. That Chapter 46, Title 39, Idaho Code, be, and the same is  
31 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
32 ignated as Section 39-4605A, Idaho Code, and to read as follows:

33 39-4605A. DUTIES OF THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LI-  
34 CENSES. Any person, corporation, or association may make application to the  
35 division of occupational and professional licenses for approval and certi-  
36 fication of the applicant's developmental disabilities facility. The di-  
37 vision may either grant or deny certification or revoke certification pre-  
38 viously granted after investigation of the applicant's facilities, to as-  
39 certain whether or not such facilities are adequate for the health, safety,  
40 care, treatment, maintenance, training, and support of developmentally dis-  
41 abled persons, in accordance with standards as set forth in rules promul-  
42 gated by the administrator of the division of occupational and professional  
43 licenses and consistent with existing national accreditation bodies.

44 SECTION 90. That Section 39-5302, Idaho Code, be, and the same is hereby  
45 amended to read as follows:

46 39-5302. DEFINITIONS. For the purposes of this chapter:

1 (1) "Abuse" means the intentional or negligent infliction of physical  
2 pain, injury or mental injury.

3 (2) "Administrator" means the administrator of the division of occupa-  
4 tional and professional licenses.

5 (3) "Caretaker" means any individual or institution that is responsi-  
6 ble by relationship, contract, or court order to provide food, shelter or  
7 clothing, or medical or other life-sustaining necessities to a vulnerable  
8 adult.

9 (34) "Commission" means the Idaho commission on aging, established  
10 pursuant to chapter 50, title 67, Idaho Code.

11 ~~(4) "Department" means the Idaho department of health and welfare.~~

12 (5) "Division" means the division of occupational and professional li-  
13 censes.

14 (56) "Emergency" means an exigent circumstance in which a vulnerable  
15 adult's health and safety is placed in imminent danger. Imminent danger is  
16 when death or severe bodily injury could reasonably be expected to occur  
17 without intervention.

18 (67) "Exploitation" means an action that may include, but is not lim-  
19 ited to, the unjust or improper use of a vulnerable adult's financial power  
20 of attorney, funds, property, or resources by another person for profit or  
21 advantage.

22 (78) "Neglect" means failure of a caretaker to provide food, clothing,  
23 shelter or medical care reasonably necessary to sustain the life and health  
24 of a vulnerable adult, or the failure of a vulnerable adult to provide those  
25 services for himself.

26 (89) "Provider" means an area agency on aging or a person or an entity  
27 capable of providing adult protective services, including duly authorized  
28 agents and employees.

29 (910) "Supportive services" means noninvestigatory remedial, social,  
30 legal, health, educational, mental health and referral services provided to  
31 a vulnerable adult.

32 (101) "Vulnerable adult" means a person eighteen (18) years of age or  
33 older who is unable to protect himself from abuse, neglect or exploitation  
34 due to physical or mental impairment that affects the person's judgment or  
35 behavior to the extent that he lacks sufficient understanding or capacity to  
36 make or communicate or implement decisions regarding his person.

37 Nothing in this chapter shall be construed to mean a person is abused,  
38 neglected, or exploited for the sole reason he is relying upon treatment by  
39 spiritual means through prayer alone in accordance with the tenets and prac-  
40 tices of a recognized church or religious denomination; nor shall the provi-  
41 sions of this chapter be construed to require any medical care or treatment  
42 in contravention of the stated or implied objection of such a person.

43 SECTION 91. That Section 39-5303, Idaho Code, be, and the same is hereby  
44 amended to read as follows:

45 39-5303. DUTY TO REPORT CASES OF ABUSE, NEGLECT OR EXPLOITATION  
46 OF VULNERABLE ADULTS. (1) Any physician, nurse, employee of a public or  
47 private health facility, or a state-licensed or certified residential fa-  
48 cility serving vulnerable adults, medical examiner, dentist, osteopath,  
49 optometrist, chiropractor, podiatrist, social worker, police officer,

1 pharmacist, physical therapist, or home care worker who has reasonable cause  
2 to believe that a vulnerable adult is being or has been abused, neglected or  
3 exploited shall immediately report such information to the commission. Pro-  
4 vided however, that nursing facilities defined in section 39-1301(b), Idaho  
5 Code, and employees of such facilities shall make reports required under  
6 this chapter to the department division. When there is reasonable cause to  
7 believe that abuse or sexual assault has resulted in death or serious physi-  
8 cal injury jeopardizing the life, health or safety of a vulnerable adult, any  
9 person required to report under this section shall also report such informa-  
10 tion within four (4) hours to the appropriate law enforcement agency.

11 (2) Failure to report as provided under this section is a misdemeanor  
12 subject to punishment as provided in section 18-113, Idaho Code. If an em-  
13 ployee at a state licensed or certified residential facility fails to report  
14 abuse or sexual assault that has resulted in death or serious physical injury  
15 jeopardizing the life, health, or safety of a vulnerable adult as provided  
16 under this section, the department division shall also have the authority  
17 to:

- 18 (a) Revoke the facility's license and/or contract with the state to  
19 provide services;
- 20 (b) Deny payment;
- 21 (c) Assess and collect a civil monetary penalty with interest from the  
22 facility owner and/or facility administrator;
- 23 (d) Appoint temporary management;
- 24 (e) Close the facility and/or transfer residents to another certified  
25 facility;
- 26 (f) Direct a plan of correction;
- 27 (g) Ban admission of persons with certain diagnoses or requiring spe-  
28 cialized care;
- 29 (h) Ban all admissions to the facility;
- 30 (i) Assign monitors to the facility; or
- 31 (j) Reduce the licensed bed capacity.

32 Any action taken by the department division pursuant to this subsection  
33 shall be appealable as provided in chapter 52, title 67, Idaho Code.

34 (3) Any person, including any officer or employee of a financial insti-  
35 tution, who has reasonable cause to believe that a vulnerable adult is being  
36 abused, neglected or exploited may report such information to the commission  
37 or its providers.

38 (4) The commission and its providers shall make training available to  
39 officers and employees of financial institutions in identifying and re-  
40 porting instances of abuse, neglect or exploitation involving vulnerable  
41 adults.

42 (5) Any person who makes any report pursuant to this chapter, or who  
43 testifies in any administrative or judicial proceeding arising from such re-  
44 port, or who is authorized to provide supportive or emergency services pur-  
45 suant to the provisions of this chapter, shall be immune from any civil or  
46 criminal liability on account of such report, testimony or services provided  
47 in good faith, except that such immunity shall not extend to perjury, reports  
48 made in bad faith or with malicious purpose nor, in the case of provision  
49 of services, in the presence of gross negligence under the existing circum-  
50 stances.

1 (6) Any person who makes a report or allegation in bad faith, with mal-  
2 ice or knowing it to be false, shall be liable to the party against whom the  
3 report was made for the amount of actual damages sustained or statutory dam-  
4 ages in the amount of five hundred dollars (\$500), whichever is greater, plus  
5 attorney's fees and costs of suit. If the court finds that the defendant  
6 acted with malice or oppression, the court may award treble actual damages or  
7 treble statutory damages, whichever is greater.

8 SECTION 92. That Section 39-5303A, Idaho Code, be, and the same is  
9 hereby amended to read as follows:

10 39-5303A. EXEMPTION FROM DUTY TO REPORT -- LIMITED APPLICATION OF  
11 EXEMPTION. (1) The requirements set forth in section 39-5303, Idaho Code,  
12 pertaining to the reporting of instances of abuse, neglect, or exploitation  
13 of a vulnerable adult to the commission or the ~~department~~ division shall not  
14 apply to situations involving resident-to-resident contact within public  
15 or private health facilities or state-licensed or state-certified facili-  
16 ties ~~which that~~ serve vulnerable adults, except in those cases involving sex  
17 abuse, death or serious physical injury that jeopardizes the life, health or  
18 safety of a vulnerable adult or repeated resident-to-resident physical or  
19 verbal altercations, not resulting in observable physical or mental injury,  
20 but constituting an ongoing pattern of resident behavior that a facility's  
21 staff are unable to remedy through reasonable efforts.

22 (2) This exemption applies only to reports involving resident-to-res-  
23 ident abuse that are to be directed to the commission or the ~~department~~  
24 division pursuant to section 39-5303, Idaho Code. This exemption shall not  
25 limit any other reporting obligation or requirement whether statutory or  
26 otherwise.

27 SECTION 93. That Section 39-5304, Idaho Code, be, and the same is hereby  
28 amended to read as follows:

29 39-5304. REPORTING REQUIREMENTS, INVESTIGATION, EMERGENCY AC-  
30 CESS. (1) When a report is required pursuant to this chapter, such report  
31 shall be made immediately to the commission or appropriate provider. Pro-  
32 vided however, that nursing facilities defined in section 39-1301(~~b~~), Idaho  
33 Code, and employees of such facilities shall make reports required under  
34 this chapter to the ~~department~~ division. If known, the report shall contain  
35 the name and address of the vulnerable adult; the caretaker; the alleged per-  
36 petrator; the nature and extent of suspected abuse, neglect or exploitation;  
37 and any other information that will be of assistance in the investigation.

38 (2) If the allegations in the report indicate that an emergency exists,  
39 the commission or provider must initiate an investigation immediately and  
40 initiate contact with the alleged vulnerable adult within twenty-four (24)  
41 hours from the time the report is received. All other investigations must  
42 be initiated within seventy-two (72) hours from the time the report is re-  
43 ceived.

44 (3) The investigation shall include a determination of the nature, ex-  
45 tent and cause of the abuse, neglect, or exploitation, examination of evi-  
46 dence and consultation with persons thought to have knowledge of the circum-

stances, and identification, if possible, of the person alleged to be responsible for the abuse, neglect or exploitation of the vulnerable adult.

(4) Where no emergency exists, the commission or provider may determine, based on the review of the report and any initial inquiries, that an interview with the vulnerable adult is not necessary to the investigation. If the commission or provider determines that an interview is necessary, the preferred method of interviewing is by means of a personal visit with the vulnerable adult in the adult's dwelling. Alternatively, the interview may occur in the local office of the commission or provider, or by telephone conversation, or by any other means available to the commission or provider. Decisions regarding the method of conducting any interview will be within the discretion of the commission or provider.

(5) Upon completion of an investigation, the commission or provider shall prepare a written report of the investigation. The name of the person making the original report or any person mentioned in the report shall not be disclosed unless those persons specifically request such disclosure or unless the disclosure is made pursuant to the commission's duty to notify law enforcement as required in section 39-5310, Idaho Code, to a request to law enforcement for emergency access, a court order or hearing.

If the abuse, neglect, or exploitation is substantiated to have occurred in a state-certified or state-licensed facility, a copy of the findings shall be sent to the ~~licensing and certification office of the department~~ division.

If the commission or provider determines that a report is unsubstantiated and that no other law has been violated, all records related to the report shall be expunged no later than three (3) years following the completion of the investigation.

SECTION 94. That Section 39-5308, Idaho Code, be, and the same is hereby amended to read as follows:

39-5308. INTERAGENCY COOPERATION. (1) In performing the duties set forth in this chapter, the commission or provider may request the assistance of the staffs and resources of all appropriate state departments, agencies, divisions, and commissions, and local health directors, and may utilize any other public or private agencies, groups, or individuals who are appropriate and who may be available. Interagency cooperation shall include the involvement, when appropriate, of law enforcement personnel, ~~department~~ division personnel, medical personnel, and any other person or entity deemed necessary due to their specialized training in providing services to vulnerable adults. Interagency cooperation may also include access to client information necessary for the provision of services to vulnerable adults.

(2) The commission shall provide to the ~~department~~ division on at least a quarterly basis a listing of all alleged perpetrators against whom an allegation of adult abuse, neglect or exploitation has been substantiated. Upon request, all available supportive information shall be provided to enable the department to conduct criminal background checks and other required investigations.

(3) The ~~department~~ division shall provide to the commission or provider any report received under this chapter from a nursing facility defined in section 39-1301~~(b)~~, Idaho Code, or an employee of such facility.

1 (4) The commission or provider shall provide the ~~department~~ division  
2 with any report received under this chapter involving allegations of abuse,  
3 neglect or exploitation occurring in a nursing facility as defined in sec-  
4 tion 39-1301-~~(b)~~, Idaho Code.

5 (5) The commission, providers, and the ~~department~~ division shall use  
6 interagency staffing when necessary and share client and facility informa-  
7 tion necessary to provide services to vulnerable adults.

8 SECTION 95. That Section 39-5309, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10 39-5309. COORDINATION OF SERVICES. Subsequent to the authorization  
11 for the provision of reasonable and necessary emergency and support ser-  
12 vices, the commission or provider shall initiate a review of each case at  
13 reasonable intervals over a reasonable period of time as the commission or  
14 provider deems necessary based upon the circumstances in each individual  
15 case to determine whether continuation or modification of the services pro-  
16 vided is warranted. A decision to continue the provision of such services  
17 should be made in concert with appropriate personnel from state agencies,  
18 divisions, departments, service providers and others, and shall comply with  
19 the consent provisions of this chapter.

20 SECTION 96. That Section 67-5009, Idaho Code, be, and the same is hereby  
21 amended to read as follows:

22 67-5009. OFFICE OF OMBUDSMAN FOR THE ELDERLY. The office of ombudsman  
23 for the elderly is hereby created within the commission. The ombudsman shall  
24 be able to independently make determinations and establish positions of the  
25 office without necessarily representing the determinations or positions of  
26 the commission. The ombudsman shall be responsible for receiving, investi-  
27 gating and resolving or closing complaints made by or on behalf of residents  
28 of long-term care facilities or persons aged sixty (60) years or older liv-  
29 ing in the community. No representative of the office shall be liable for  
30 the good faith performance of official duties, and willful interference with  
31 representatives of the office is unlawful. Long-term care facilities are  
32 prohibited from interference, reprisals or retaliation against a resident,  
33 employee or other person filing a complaint with, or furnishing information  
34 to, the office.

35 For the purposes of implementing the provisions of this section, the  
36 commission is hereby authorized as follows:

37 The administrator shall hire the state ombudsman for the elderly who  
38 shall be a person with the necessary educational background commensurate  
39 with the duties and responsibilities of the office of ombudsman and shall  
40 be a classified employee subject to the provisions of chapter 53, title 67,  
41 Idaho Code.

42 The ombudsman may delegate to designated local ombudsmen any duties  
43 deemed necessary to carry out the purposes of the provisions of this section.

44 The ombudsman shall establish procedures for receiving and processing  
45 complaints, conducting investigations and reporting his findings. He shall  
46 have jurisdiction to investigate administrative acts or omissions of long-  
47 term care facilities or state or county departments or agencies providing

1 services to older people. An administrative act of a long-term care facility  
2 or state or county department or agency may become an appropriate subject for  
3 the ombudsman to investigate under certain circumstances. For example, the  
4 ombudsman may investigate such an act if it might be contrary to law, unrea-  
5 sonable, unfair, oppressive, capricious or discriminatory. The ombudsman  
6 may make a finding for an appropriate resolution to the subject matter of the  
7 investigation.

8 The ombudsman shall investigate any complaint that he determines to be  
9 an appropriate subject for investigation under this section and will work to  
10 resolve the complaint to the satisfaction of the resident or the resident's  
11 representative.

12 In an investigation of any complaint or administrative act of any long-  
13 term care facility or state or county department or agency providing ser-  
14 vices to older people, the ombudsman may undertake, but not be limited to,  
15 any of the following actions:

16 (a) Make the necessary inquiries and obtain such information he deems  
17 necessary.

18 (b) Hold private hearings.

19 (c) Enter during regular business hours, a state or county department  
20 or agency's premises, or enter at any time a long-term care facility.

21 Following the investigation and upon his determination that particular  
22 subject matter should be further considered by the long-term care facility  
23 or state or county department or agency, an administrative act should be mod-  
24 ified or canceled, a statute or regulation on which an administrative act is  
25 based should be altered, reasons should be given for an administrative act,  
26 or some other action should be taken by a long-term care facility or state  
27 or county department or agency, he shall report his opinions and recommenda-  
28 tions to the respective parties. The ombudsman may request the parties af-  
29 fected by such opinions or recommendations to notify him within the speci-  
30 fied time of any action taken by such parties on his recommendation.

31 The ombudsman shall notify, in writing or verbally, the resident or the  
32 resident's representative within a reasonable time from the date the inves-  
33 tigation is terminated of any actions taken by him and the long-term care fa-  
34 cility, or state or county department or agency to resolve any issues raised  
35 by the complaint.

36 The ombudsman, on December 1 of each year, shall submit to the gover-  
37 nor, the speaker of the house, the president of the senate, the department of  
38 health and welfare division of licensing and certification division of occu-  
39 pational and professional licenses, the president of the Idaho hospital as-  
40 sociation, and the president of the Idaho health care association a report  
41 of the activities of the ombudsman for the elderly during the prior fiscal  
42 year. This report shall include, but not be limited to, the number and gen-  
43 eral patterns of complaints received by the ombudsman, the action taken on  
44 such complaints, the results of such action, and any opinions or recommenda-  
45 tions which further the state's capability in providing for statutory reso-  
46 lution of complaints.

47 Nothing in this section shall be construed to be a limitation of the pow-  
48 ers and responsibilities assigned by law to other state or county depart-  
49 ments or agencies.

1 Records obtained by the ombudsman shall be subject to disclosure ac-  
2 cording to chapter 1, title 74, Idaho Code.

3 SECTION 97. That Section 39-1392a, Idaho Code, be, and the same is  
4 hereby amended to read as follows:

5 39-1392a. DEFINITIONS. The following terms shall have the following  
6 meanings when used in this section:

7 (1) "Emergency medical services personnel" means emergency medical  
8 services providers certified by the department of health and welfare pur-  
9 suant to section 56-1011 et seq., Idaho Code, and ambulance-based clinicians  
10 as defined in the rules governing emergency medical services as promulgated  
11 by the department of health and welfare.

12 (2) "Group medical practice" means a partnership, corporation, limited  
13 liability company, or other association formed for the purpose of offering  
14 health care services through physicians and other licensed or otherwise au-  
15 thorized health care providers who are partners, shareholders, members, em-  
16 ployees, or contractors of such group medical practice.

17 (3) "Health care organization" means a hospital, in-hospital medical  
18 staff committee, medical society, managed care organization, licensed emer-  
19 gency medical service, group medical practice, residential care facility or  
20 skilled nursing facility.

21 (4) "Hospital" means a facility in Idaho licensed under sections  
22 39-1301 through 39-1314, Idaho Code, and defined in section 39-1301~~(a)(1)~~,  
23 Idaho Code.

24 (5) "In-hospital medical staff committees" means any individual doctor  
25 who is a hospital staff member, or any hospital employee, or any group of such  
26 doctors and/or hospital employees, who are duly designated a committee by  
27 hospital staff bylaws, by action of an organized hospital staff, or by action  
28 of the board of directors of a hospital, and which committee is authorized  
29 by said bylaws, staff or board of directors, to conduct research or study of  
30 hospital patient cases, or of medical questions or problems using data and  
31 information from hospital patient cases.

32 (6) "Licensed emergency medical service" means an ambulance service or  
33 a nontransport service licensed by the department of health and welfare pur-  
34 suant to section 56-1011 et seq., Idaho Code.

35 (7) "Managed care organization" means a public or private person or or-  
36 ganization which offers a managed care plan.

37 (8) "Managed care plan" means a contract of coverage given to an indi-  
38 vidual, family or group of covered individuals pursuant to which a member is  
39 entitled to receive a defined set of health care benefits through an orga-  
40 nized system of health care providers in exchange for defined consideration  
41 and which requires the member to use, or creates financial incentives for the  
42 member to use, health care providers owned, managed, employed by or under  
43 contract with the managed care organization.

44 (9) "Medical society" means any duly constituted, authorized and rec-  
45 ognized professional society or entity made up of physicians licensed to  
46 practice medicine in Idaho, having as its purpose the maintenance of high  
47 quality in the standards of health care provided in Idaho or any region or  
48 segment of the state, operating with the approval of the Idaho state board

1 of medicine, or any official committee appointed by the Idaho state board of  
2 medicine.

3 (10) "Patient care records" means written or otherwise recorded, pre-  
4 served and maintained records of the medical or surgical diagnostic, clini-  
5 cal, or therapeutic care of any patient treated by or under the direction of  
6 licensed professional personnel, including emergency medical services per-  
7 sonnel, in every health care organization subject to this act, whether as an  
8 inpatient or outpatient of the health care organization.

9 (11) "Peer review" means the collection, interpretation and analysis of  
10 data by a health care organization for the purpose of bettering the system  
11 of delivery of health care or to improve the provision of health care or to  
12 otherwise reduce patient morbidity and mortality and improve the quality of  
13 patient care. Peer review activities by a health care organization include,  
14 without limitation:

15 (a) Credentialing, privileging or affiliating of health care providers  
16 as members of, or providers for, a health care organization;

17 (b) Quality assurance and improvement, patient safety investigations  
18 and analysis, patient adverse outcome reviews, and root-cause analysis  
19 and investigation activities by a health care organization; and

20 (c) Professional review action, meaning an action or recommendation  
21 of a health care organization which is taken or made in the conduct of  
22 peer review, that is based on the competence or professional conduct of  
23 an individual physician or emergency medical services personnel where  
24 such conduct adversely affects or could adversely affect the health  
25 or welfare of a patient or the physician's privileges, employment or  
26 membership in the health care organization or in the case of emergency  
27 medical services personnel, the emergency medical services personnel's  
28 scope of practice, employment or membership in the health care organ-  
29 ization.

30 (12) "Peer review records" means all evidence of interviews, reports,  
31 statements, minutes, memoranda, notes, investigative graphs and compila-  
32 tions and the contents thereof, and all physical materials relating to peer  
33 review of any health care organization. "Peer review records" does not mean  
34 or include patient care records; provided however, that the records relating  
35 to the identification of which particular patient care records were selected  
36 for, or reviewed, examined or discussed in peer review by a health care or-  
37 ganization and the methodology used for selecting such records shall be con-  
38 sidered peer review records.

39 (13) "Skilled nursing facility" means a facility licensed under chapter  
40 13, title 39, Idaho Code, to provide skilled care to recipients.

41 SECTION 98. That Section 39-3301, Idaho Code, be, and the same is hereby  
42 amended to read as follows:

43 39-3301. LEGISLATIVE INTENT AND DECLARATION. The purpose of a resi-  
44 dential care or assisted living facility in Idaho is to provide a humane,  
45 safe, and homelike living arrangement for adults who need some assistance  
46 with activities of daily living and personal care but do not require the  
47 level of care identified under section 39-1301(~~b~~), Idaho Code, other than  
48 for short exceptional stays meaning a treatment window designed to allow a

1 resident to receive treatment for a short term acute episode as determined by  
2 a licensed professional nurse.

3 The state will encourage the development of facilities tailored to the  
4 needs of individual populations which operate in integrated settings in  
5 communities where sufficient supportive services exist to provide the res-  
6 ident, if appropriate, an opportunity to work and be involved in recreation  
7 and education opportunities. Employment, recreational and educational  
8 opportunities for people with disabilities shall be offered in the most in-  
9 tegrated setting consistent with their needs.

10 A residential care or assisted living facility shall be operated and  
11 staffed by individuals who have the knowledge and experience required to  
12 provide safe and appropriate services to all residents of the facility.

13 The administrator of the facility shall ensure that an objective, in-  
14 dividualized assessment to determine resident needs is conducted, develop a  
15 comprehensive negotiated plan of care to meet those needs, deliver appropri-  
16 ate services to meet resident needs, and ensure resident rights are honored.

17 SECTION 99. That Section 39-3322, Idaho Code, be, and the same is hereby  
18 amended to read as follows:

19 39-3322. QUALIFICATIONS AND REQUIREMENTS FOR FACILITY STAFF. (1) Each  
20 facility must employ or arrange for sufficient trained staff to fully meet  
21 the needs of its residents and the requirements of this chapter. The facil-  
22 ity shall have sufficient staff to provide care during all hours required in  
23 each resident's negotiated service plan. Additional staff may be required  
24 if physical plant and disability of residents indicate that staff assistance  
25 in emergencies is required. Benchmarks shall be established in the assess-  
26 ment criteria where the need for certified nursing assistants or licensed  
27 nurses is indicated. Residential care or assisted living facilities shall  
28 not retain residents who require the care provided by nursing facilities un-  
29 der section 39-1301(b), Idaho Code, other than for short exceptional stays  
30 pursuant to negotiated rulemaking as defined in chapter 52, title 67, Idaho  
31 Code.

32 (2) Should a residential care or assisted living facility choose not  
33 to carry professional liability insurance, that information shall be dis-  
34 closed, in writing, to employees at the time of hiring.

35 SECTION 100. That Section 54-3215, Idaho Code, be, and the same is  
36 hereby amended to read as follows:

37 54-3215. EXEMPTIONS. Students enrolled in a recognized program lead-  
38 ing to a degree in social work may practice only under the direct supervision  
39 of a social worker of the licensure status necessary to provide the appropri-  
40 ate level of supervision as provided by board rule. This chapter shall not  
41 apply to any employee of any facility licensed under section 39-1301(b7),  
42 Idaho Code, or section 39-1301(e) or (9), Idaho Code, who is designated in  
43 writing to be responsible for that facility's social services program and  
44 who receives regular consultation from a qualified social worker.

45 SECTION 101. That Section 56-101, Idaho Code, be, and the same is hereby  
46 amended to read as follows:

1           56-101. DEFINITIONS. Unless the context clearly requires otherwise,  
2 the definitions in this section apply throughout this chapter and shall have  
3 the following meanings:

4           (1) "Appraisal" means the method of determining the value of the prop-  
5 erty as determined by an appraisal conducted by a member of the appraisal in-  
6 stitute (MAI), or successor organization. The appraisal must specifically  
7 identify the values of land, building, equipment, and goodwill.

8           (2) "Assets" means economic resources of the contractor, recognized  
9 and measured in conformity with generally accepted accounting principles.

10          (3) "Bed-weighted median" is determined by arraying the average per  
11 diem cost per bed of all facilities from high to low and identifying the bed  
12 at the point in the array at which half of the beds have equal or higher per  
13 diem costs and half have equal or lower per diem costs. The identified bed  
14 is the median bed. The per diem cost of the median bed is the bed-weighted  
15 median.

16          (4) "Case mix index" is a numeric score assigned to each facility resi-  
17 dent, based on the resident's physical and mental condition, which projects  
18 the amount of relative resources needed to provide care to the resident.

19          (5) "Depreciation" means the systematic distribution of the cost or  
20 other basis of tangible assets, less salvage, over the estimated useful life  
21 of the assets.

22          (6) "Direct care costs" consists of the following costs directly as-  
23 signed to the nursing facility or allocated to the nursing facility through  
24 medicare cost finding principles:

25           (a) Direct nursing salaries which include the salaries of registered  
26 nurses, licensed professional nurses, certificated nurse's aides, and  
27 unit clerks; and

28           (b) Routine nursing supplies; and

29           (c) Nursing administration; and

30           (d) Direct portion of medicaid related ancillary services; and

31           (e) Social services; and

32           (f) Raw food; and

33           (g) Employee benefits associated with the direct salaries.

34          (7) "Director" means the director of the department of health and wel-  
35 fare or the director's designee.

36          (8) "Equity" means the net book value of all tangible and intangible as-  
37 sets less the recorded value of all liabilities, as recognized and measured  
38 in conformity with generally accepted accounting principles.

39          (9) "Facility" means an entity which contracts with the director  
40 to provide services to recipients in a structure owned, controlled, or  
41 otherwise operated by such entity, and which entity is responsible for oper-  
42 ational decisions. In conjunction with the use of the term "facility":

43           (a) "Freestanding intermediate care" means an intermediate care facil-  
44 ity, as defined in and licensed under chapter 13, title 39, Idaho Code,  
45 which is not owned, managed, or operated by, nor is otherwise a part of a  
46 hospital, as defined in section 39-1301(a), Idaho Code; and

47           (b) "Freestanding skilled care" means a nursing facility, as defined in  
48 and licensed under chapter 13, title 39, Idaho Code, which is not owned,  
49 managed, or operated by, nor is otherwise a part of a hospital, as de-  
50 fined in section 39-1301(a), Idaho Code; and

1 (c) "Freestanding special care" means a facility that provides either  
2 intermediate care, or skilled care, or intermediate care for people  
3 with intellectual disabilities, or any combination of either, which is  
4 not owned, managed, or operated by, nor is otherwise a part of a hospi-  
5 tal, as defined in section 39-1301(a), Idaho Code; and

6 (d) "Hospital-based" means a nursing or intermediate care facility, as  
7 defined in and licensed under chapter 13, title 39, Idaho Code, which is  
8 owned, managed, or operated by, or is otherwise a part of a hospital, as  
9 defined in section 39-1301(a), Idaho Code.

10 (10) "Forced sale" is a sale required by a bankruptcy, foreclosure, the  
11 provisions of a will or estate settlement pursuant to the death of an owner,  
12 physical or mental incapacity of an owner which requires ownership transfer  
13 to existing partner or partners, or a sale required by the ruling of a federal  
14 agency or by a court order.

15 (11) "Goodwill" means the amount paid by the purchaser that exceeds the  
16 net tangible assets received. The value of goodwill is derived from the eco-  
17 nomic benefits that a going concern may enjoy, as compared with a new one,  
18 from established relations in the related markets, with government depart-  
19 ments and other noncommercial bodies and with personal relationships. These  
20 intangible assets cannot be separated from the business and sold as can plant  
21 and equipment. Under the theory that the excess payment would be made only  
22 if expected future earnings justified it, goodwill is often described as the  
23 price paid for excess future earnings. The amortization of goodwill is non-  
24 allowable, nonreimbursable expense.

25 (12) "Historical cost" means the actual cost incurred in acquiring and  
26 preparing an asset for use, including feasibility studies, architect's  
27 fees, and engineering studies.

28 (13) "Indirect care costs" consists of the following costs either di-  
29 rectly coded to the nursing facility or allocated to the nursing facility  
30 through the medicare step-down process:

- 31 (a) Administrative and general care cost; and  
32 (b) Activities; and  
33 (c) Central services and supplies; and  
34 (d) Laundry and linen; and  
35 (e) Dietary ("non-raw food" costs); and  
36 (f) Plant operation and maintenance (excluding utilities); and  
37 (g) Medical records; and  
38 (h) Employee benefits associated with the indirect salaries; and  
39 (i) Housekeeping; and  
40 (j) Other costs not included in direct care costs or costs exempt from  
41 cost limits.

42 (14) "Interest rate limitation" means that the interest rate allowed  
43 for working capital loans and for loans for major movable equipment for in-  
44 termediate care facilities for people with intellectual disabilities shall  
45 be the prime rate as published in the western edition of the Wall Street  
46 Journal or successor publication, plus one percent (1%) at the date the loan  
47 is made. All interest expense greater than the amount derived by using the  
48 limitation above shall be nonreimbursable; provided, however, that this  
49 interest rate limitation shall not be imposed against loans or leases which

1 were made prior to July 1, 1984. Said loans or leases shall be subject to the  
2 tests of reasonableness, relationship to patient care and necessity.

3 (15) "Intermediate care facility for people with intellectual disabili-  
4 ties" means an habilitative facility designed and operated to meet the ed-  
5 ucational, training, habilitative and intermittent medical needs of the de-  
6 velopmentally disabled.

7 (16) "Major movable equipment" means such items as accounting machines,  
8 beds, wheelchairs, desks, furniture, vehicles, etc. The general character-  
9 istics of this equipment are:

10 (a) A relatively fixed location in the building;

11 (b) Capable of being moved, as distinguished from building equipment;

12 (c) A unit cost sufficient to justify ledger control;

13 (d) Sufficient size and identity to make control feasible by means of  
14 identification tags; and

15 (e) A minimum life of approximately three (3) years.

16 (17) "Medicaid" means the 1965 amendments to the social security act  
17 (P.L. 89-97), as amended.

18 (18) "Minor movable equipment" includes such items as wastebaskets,  
19 bedpans, syringes, catheters, silverware, mops, buckets, etc. The general  
20 characteristics of this equipment are:

21 (a) In general, no fixed location and subject to use by various depart-  
22 ments of the provider's facility;

23 (b) Comparatively small in size and unit cost;

24 (c) Subject to inventory control;

25 (d) Fairly large quantity in use; and

26 (e) Generally, a useful life of approximately three (3) years or less.

27 (19) "Net book value" means the historical cost of an asset, less accu-  
28 mulated depreciation.

29 (20) "Normalized per diem costs" refers to direct care costs that have  
30 been adjusted based on the facility's case mix index for purposes of making  
31 the per diem costs comparable among facilities. Normalized per diem costs  
32 are calculated by dividing the facility's direct care per diem costs by its  
33 facility-wide case mix index, and multiplying the result by the statewide  
34 average case mix index.

35 (21) "Nursing facility inflation rate" means the most specific skilled  
36 nursing facility inflation rate applicable to Idaho established by data re-  
37 sources, inc., or its successor. If a state or regional index has not been  
38 implemented, the national index shall be used.

39 (22) "Patient-day" means a calendar day of care which will include the  
40 day of admission and exclude the day of discharge unless discharge occurs af-  
41 ter 3:00 p.m. or it is the date of death, except that, when admission and dis-  
42 charge occur on the same day, one (1) day of care shall be deemed to exist.

43 (23) "Property costs" means the total of allowable interest expense,  
44 plus depreciation, property insurance, real estate taxes, amortization, and  
45 allowable lease/rental expense. The department may require and utilize an  
46 appraisal to establish those components of property costs which are identi-  
47 fied as an integral part of an appraisal.

48 (24) "Raw food" means food used to meet the nutritional needs of the res-  
49 idents of a facility, including liquid dietary supplements, liquid thicken-  
50 ers, and tube feeding solutions.

1 (25) "Reasonable property insurance" means that the consideration  
 2 given is an amount that would ordinarily be paid by a cost-conscious buyer  
 3 for comparable insurance in an arm's length transaction. Property insurance  
 4 per licensed bed in excess of two (2) standard deviations above the mean of  
 5 the most recently reported property insurance costs per licensed bed of all  
 6 facilities in the reimbursement class as of the end of a facility's fiscal  
 7 year shall not be considered reasonable.

8 (26) "Recipient" means an individual determined eligible by the direc-  
 9 tor for the services provided in the state plan for medicaid.

10 (27) "Rural hospital-based nursing facilities" are those hospi-  
 11 tal-based nursing facilities not located within a metropolitan statistical  
 12 area (MSA) as defined by the United States bureau of the census.

13 (28) "Urban hospital-based nursing facilities" are those hospi-  
 14 tal-based nursing facilities located within a metropolitan statistical area  
 15 (MSA) as defined by the United States bureau of the census.

16 (29) "Utilities" means all expenses for heat, electricity, water and  
 17 sewer.

18 SECTION 102. That Section 56-1402, Idaho Code, be, and the same is  
 19 hereby amended to read as follows:

20 56-1402. DEFINITIONS. As used in this chapter:

21 (1) "Department" means the department of health and welfare.

22 (2) "Disproportionate share hospital" means a hospital that serves a  
 23 disproportionate share of medicaid low-income patients as compared to other  
 24 hospitals as determined by department rule.

25 (3) "Governmental entity" means and includes the state and its politi-  
 26 cal subdivisions.

27 (4) "Hospital" is as defined in section 39-1301(a), Idaho Code.

28 (5) "Political subdivision" means a county, city, municipal corpora-  
 29 tion or hospital taxing district and, as used in this chapter, shall include  
 30 state licensed hospitals established by counties pursuant to chapter 36, ti-  
 31 tle 31, Idaho Code, or jointly by cities and counties pursuant to chapter 37,  
 32 title 31, Idaho Code.

33 (6) "Private hospital" means a hospital that is not owned by a govern-  
 34 mental entity.

35 (7) "Upper payment limit" means a limitation established by federal  
 36 regulations, 42 CFR 447.272 and 42 CFR 447.321, that disallows federal  
 37 matching funds when state medicaid agencies pay certain classes of hospitals  
 38 an aggregate amount for inpatient and outpatient hospital services that  
 39 would exceed the amount that would be paid for the same services furnished by  
 40 that class of hospitals under medicare payment principles.

41 SECTION 103. That Section 63-701, Idaho Code, be, and the same is hereby  
 42 amended to read as follows:

43 63-701. DEFINITIONS. As used in this chapter:

44 (1) "Claimant" means a person who has filed an application under sec-  
 45 tion 63-602G, Idaho Code, and has filed a claim under the provisions of  
 46 sections 63-701 through 63-710, Idaho Code. Except as provided in section  
 47 63-702(2), Idaho Code, on January 1 or before April 15 of the year in which

1 the claimant first filed a claim on the homestead in question, a claimant  
 2 must be an owner of the homestead, a claimant must have lawful presence in the  
 3 United States pursuant to section 67-7903, Idaho Code, and on January 1 of  
 4 said year a claimant must be:

5 (a) Not less than sixty-five (65) years old; or

6 (b) A child under the age of eighteen (18) years who is fatherless or  
 7 motherless or who has been abandoned by any surviving parent or parents;  
 8 or

9 (c) A widow or widower; or

10 (d) A disabled person who is recognized as disabled by the social se-  
 11 curity administration pursuant to title 42 of the United States Code,  
 12 or by the railroad retirement board pursuant to title 45 of the United  
 13 States Code, or by the office of management and budget pursuant to title  
 14 5 of the United States Code, or, if a person is not within the purview of,  
 15 and is therefore not recognized as disabled by, any other entity listed  
 16 in this paragraph, then by the public employee retirement system or pub-  
 17 lic employee disability plan in which the person participates that may  
 18 be of any state, local unit of government or other jurisdiction in the  
 19 United States of America; or

20 (e) A disabled veteran of any war engaged in by the United States, whose  
 21 disability is recognized as a service-connected disability of a degree  
 22 of ten percent (10%) or more, or who has a pension for nonservice-con-  
 23 nected disabilities, in accordance with laws and regulations adminis-  
 24 tered by the United States department of veterans affairs; or

25 (f) A person, as specified in 42 U.S.C. 1701, who was or is entitled  
 26 to receive benefits because he is known to have been taken by a hostile  
 27 force as a prisoner, hostage or otherwise; or

28 (g) Blind.

29 (2) "Homestead" means the dwelling, owner-occupied by the claimant  
 30 as described in this chapter and used as the primary dwelling place of the  
 31 claimant and may be occupied by any members of the household as their home,  
 32 and so much of the land surrounding it, not exceeding one (1) acre, as is  
 33 reasonably necessary for the use of the dwelling as a home. It may consist  
 34 of a part of a multidwelling or multipurpose building and part of the land  
 35 upon which it is built. "Homestead" does not include personal property such  
 36 as furniture, furnishings or appliances, but a manufactured home may be a  
 37 homestead.

38 (3) "Household" means the claimant and the claimant's spouse. The term  
 39 does not include bona fide lessees, tenants, or roomers and boarders on con-  
 40 tract. "Household" includes persons described in subsection (8) (b) of this  
 41 section.

42 (4) "Household income" means all income received by the claimant and,  
 43 if married, all income received by the claimant's spouse, in a calendar year.

44 (5) "Income" means the sum of federal adjusted gross income as defined  
 45 in the Internal Revenue Code, as defined in section 63-3004, Idaho Code, and  
 46 to the extent not already included in federal adjusted gross income:

47 (a) Alimony;

48 (b) Support money;

49 (c) Nontaxable strike benefits;

1 (d) The nontaxable amount of any individual retirement account, pen-  
2 sion or annuity, including railroad retirement benefits, all payments  
3 received under the federal social security act except the social secu-  
4 rity death benefit as specified in this subsection, state unemployment  
5 insurance laws, and veterans disability pensions and compensation, ex-  
6 cluding any return of principal paid by the recipient of an annuity and  
7 excluding rollovers as provided in 26 U.S.C. 402 or 403, and excluding  
8 the nontaxable portion of a Roth individual retirement account distri-  
9 bution, as provided in 26 U.S.C. 408A;

10 (e) Nontaxable interest received from the federal government or any of  
11 its instrumentalities or a state government or any of its instrumentali-  
12 ties;

13 (f) Worker's compensation; and

14 (g) The gross amount of loss of earnings insurance.

15 It does not include gifts from nongovernmental sources or inheritances. To  
16 the extent not reimbursed, the cost of medical care as defined in section  
17 213(d) of the Internal Revenue Code, incurred and paid by the claimant and,  
18 if married, the claimant's spouse, may be deducted from income. To the ex-  
19 tent not reimbursed, personal funeral expenses, including prepaid funeral  
20 expenses and premiums on funeral insurance, of the claimant and claimant's  
21 spouse only, may be deducted from income up to an annual maximum of five thou-  
22 sand dollars (\$5,000) per claim. "Income" does not include veterans dis-  
23 ability pensions received by a person described in subsection (1) (e) of this  
24 section who is a claimant or a claimant's spouse if the disability pension  
25 is received pursuant to a service-connected disability of a degree of forty  
26 percent (40%) or more. "Income" does not include dependency and indemnity  
27 compensation or death benefits paid to a person described in subsection (1)  
28 of this section by the United States department of veterans affairs and aris-  
29 ing from a service-connected death or disability. "Income" does not include  
30 lump sum death benefits made by the social security administration pursuant  
31 to 42 U.S.C. 402(i). Documentation of medical expenses may be required by  
32 the county assessor and state tax commission in such form as the county as-  
33 sessor or state tax commission shall determine. "Income" shall be that re-  
34 ceived in the calendar year immediately preceding the year in which a claim  
35 is filed. Where a claimant and/or the claimant's spouse does not file a fed-  
36 eral tax return, the claimant's and/or the claimant's spouse's federal ad-  
37 justed gross income, for purposes of this section, shall be an income equiva-  
38 lent to federal adjusted gross income had the claimant and/or the claimant's  
39 spouse filed a federal tax return, as determined by the county assessor. The  
40 county assessor or state tax commission may require documentation of income  
41 in such form as each shall determine, including, but not limited to: copies  
42 of federal or state tax returns and any attachments thereto; and income re-  
43 porting forms such as the W-2 and 1099.

44 For determining income for certain married individuals living apart,  
45 the provisions of sections 2(c) and 7703(b) of the Internal Revenue Code  
46 shall apply.

47 (6) "Occupied" means actual use and possession.

48 (7) "Owner" means a person holding title in fee simple or holding a cer-  
49 tificate of motor vehicle title (either of which may be subject to mortgage,  
50 deed of trust or other lien) or who has retained or been granted a life estate

1 or who is a person entitled to file a claim under section 63-702, Idaho Code.  
2 "Owner" shall also include any person who:

3 (a) Is the beneficiary of a revocable or irrevocable trust which is the  
4 owner of such homestead and under which the claimant or the claimant's  
5 spouse has the primary right of occupancy of the homestead; or

6 (b) Is a partner of a limited partnership, member of a limited liabil-  
7 ity company or shareholder of a corporation if such entity holds title  
8 in fee simple or holds a certificate of motor vehicle title and if the  
9 person holds at least a five percent (5%) ownership in such entity, as  
10 determined by the county assessor; or

11 (c) Has retained or been granted a life estate.

12 "Owner" includes a vendee in possession under a land sale contract. Any  
13 partial ownership shall be considered as ownership for determining initial  
14 qualification for property tax reduction benefits; however, the amount of  
15 property tax reduction under section 63-704, Idaho Code, and rules promul-  
16 gated pursuant to section 63-705, Idaho Code, shall be computed on the value  
17 of the claimant's partial ownership. "Partial ownership," for the purposes  
18 of this section, means any one (1) person's ownership when property is owned  
19 by more than one (1) person or where the homestead is held by an entity, as  
20 set forth in this subsection, but more than one (1) person has the right of  
21 occupancy of such homestead. A person holding either partial title in fee  
22 simple or holding a certificate of motor vehicle title together with another  
23 person, but who does not occupy the dwelling as his primary dwelling place,  
24 shall not be considered an owner for purposes of this section, if such person  
25 is a cosignatory of a note secured by the dwelling in question and at least  
26 one (1) of the other cosignatories of the note occupies the dwelling as his  
27 primary dwelling place. The combined community property interests of both  
28 spouses shall not be considered partial ownership as long as the combined  
29 community property interests constitute the entire ownership of the home-  
30 stead, including where the spouses are occupying a homestead owned by an en-  
31 tity, as set forth in this subsection, and the spouses have the primary right  
32 of occupancy of the homestead. The proportional reduction required under  
33 this subsection shall not apply to community property interests. Where  
34 title to property was held by a person who has died without timely filing a  
35 claim for property tax reduction, the estate of the deceased person shall be  
36 the "owner," provided that the time periods during which the deceased person  
37 held such title shall be attributed to the estate for the computation of any  
38 time periods under subsection (8) (a) or (b) of this section.

39 (8) (a) "Primary dwelling place" means the claimant's dwelling place  
40 on January 1 or before April 15 of the year for which the claim is made.  
41 The primary dwelling place is the single place where a claimant has  
42 his true, fixed and permanent home and principal establishment, and to  
43 which whenever the individual is absent he has the intention of return-  
44 ing. A claimant must establish the dwelling to which the claim relates  
45 to be his primary dwelling place by clear and convincing evidence or by  
46 establishing that the dwelling is where the claimant resided on January  
47 1 or before April 15 and:

48 (i) At least six (6) months during the prior year; or

49 (ii) The majority of the time the claimant owned the dwelling if  
50 owned by the claimant less than one (1) year; or

1 (iii) The majority of the time after the claimant first occupied  
 2 the dwelling if occupied by the claimant for less than one (1)  
 3 year. The county assessor may require written or other proof of  
 4 the foregoing in such form as the county assessor may determine.

5 (b) Notwithstanding the provisions of paragraph (a) of this subsec-  
 6 tion, the property upon which the claimant makes application shall be  
 7 deemed to be the claimant's primary dwelling place if the claimant is  
 8 otherwise qualified and resides in a care facility and does not allow  
 9 the property upon which the claimant has made application to be occu-  
 10 pied by persons paying a consideration to occupy the dwelling. Payment  
 11 of utilities shall not be payment of a consideration to occupy the  
 12 dwelling. A claimant's spouse who resides in a care facility shall be  
 13 deemed to reside at the claimant's primary dwelling place and to be a  
 14 part of the claimant's household. A care facility is a hospital, nurs-  
 15 ing facility or intermediate care facility for people with intellectual  
 16 disabilities as defined in section 39-1301, Idaho Code, or a facility  
 17 as defined in section 39-3302-~~(16)~~, Idaho Code, or a dwelling other than  
 18 the one upon which the applicant makes application where a claimant who  
 19 is unable to reside in the dwelling upon which the application is made  
 20 lives and receives help in daily living, protection and security.

21 SECTION 104. That Section 66-327, Idaho Code, be, and the same is hereby  
 22 amended to read as follows:

23 66-327. RESPONSIBILITY FOR COSTS OF COMMITMENT AND CARE OF PA-  
 24 TIENTS. (a) All costs associated with the commitment proceedings, including  
 25 fees of designated examiners, transportation costs and all medical, psy-  
 26 chiatric and hospital costs not included in subsection (c) of this section,  
 27 shall be the responsibility of the person subject to judicial proceedings  
 28 authorized by this chapter or such person's spouse, adult children, or, if  
 29 indigent, the county of such person's residence after all personal, family  
 30 and third party resources, including medical assistance provided under the  
 31 state plan for medicaid as authorized by title XIX of the social security  
 32 act, as amended, are considered. In proceedings authorized by this chapter,  
 33 the court shall consider the indigency of persons subject to proceedings  
 34 authorized by this chapter, in light of such person's income and resources,  
 35 and if such person is able to pay all or part of such costs, the court shall  
 36 order such person to pay all or any part of such costs. If the court deter-  
 37 mines such person is unable to pay all or any part of such costs, the court  
 38 shall fix responsibility, in accordance with the provisions of chapter 35,  
 39 title 31, Idaho Code, for payment of such costs on the county of such person's  
 40 residence to the extent not paid by such person or not covered by third party  
 41 resources, including medical assistance as aforesaid. The amount of pay-  
 42 ment by a county shall be the medicaid rate, or pursuant to the provisions of  
 43 any contract between a provider and an obligated county, or if the facility  
 44 providing the services is a freestanding mental health facility, then the  
 45 reimbursement rate will be the medicaid rate, for a hospital as defined by  
 46 section 39-1301-~~(a)~~, Idaho Code, that provides services within the nearest  
 47 proximity of the mental health facility. Such costs fixed by the court shall  
 48 be based upon the time services were provided.

1 (b) An order of commitment pursuant to the provisions of this section  
2 shall be sufficient to require the release of all pertinent information re-  
3 lated to the committed person, to the court and obligated county, within the  
4 restrictions of all applicable federal and state laws.

5 (c) The department of health and welfare shall assume responsibility  
6 for costs after the involuntary patient is committed to the custody of the  
7 state of Idaho, beginning on the day after the director receives notice that  
8 a person has been committed into the custody of the department, until the  
9 involuntary patient is discharged and after all personal, family and third  
10 party resources are considered in accordance with section 66-354, Idaho  
11 Code. The counties shall be responsible for mental health costs as defined  
12 in subsection (a) of this section if the individual is not transported within  
13 twenty-four (24) hours of receiving written notice of admission availabil-  
14 ity to a state facility. For purposes of this section, "costs" shall include  
15 routine board, room and support services rendered at a facility of the de-  
16 partment of health and welfare; routine physical, medical, psychological  
17 and psychiatric examination and testing; group and individual therapy, psy-  
18 chiatric treatment, medication and medical care which can be provided at a  
19 facility of the department of health and welfare. The term " costs" shall  
20 not include neurological evaluation, CAT scan, surgery, medical treatment,  
21 any other item or service not provided at a facility of the department of  
22 health and welfare, or witness fees and expenses for court appearances. For  
23 the purposes of this section, the notice to the department may be faxed or  
24 mailed.

25 SECTION 105. An emergency existing therefor, which emergency is hereby  
26 declared to exist, this act shall be in full force and effect upon the ap-  
27 proval, by the Centers for Medicare and Medicaid Services, of the transition  
28 of authority from the Department of Health and Welfare, Division of Licens-  
29 ing and Certification, to the Division of Occupational and Professional Li-  
30 censes, or on and after July 1, 2022, whichever occurs later.